

Mr. Tolson ☒
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 Mr. Nichols ☒
 Mr. Belmont ☒
 Mr. Harbo ☐
 Mr. Mohr ☐
 Mr. Parsons ☒
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 Miss Gandy ☐

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(CELLER)

NEW YEAR--REP. EMANUEL CELLER SAID THAT HE WILL NOT HESITATE TO INSTITUTE IMPEACHMENT PROCEEDINGS AGAINST FEDERAL JUDGES WHO PERMITTED EAVESDROPPING ON JURIES IF HE DECIDES THAT THE MATTER "RISES TO THE IMPORTANCE OF IMPEACHMENT."

CELLER SAID HE DEPLORES "AN INVASION OF THE SANCTITY OF THE JURY ROOM" AND, WITH THAT IN MIND, WILL READ THE TRANSCRIPT OF THE SENATE HEARINGS INTO THE CASE OF THE JURY ROOM LEAKS.

CELLER IS CHAIRMAN OF THE HOUSE JUDICIARY COMMITTEE. HIS COMMITTEE WOULD BE THE LOGICAL ONE TO BEGIN ANY IMPEACHMENT PROCEEDINGS IN THE CASE, SINCE UNDER THE CONSTITUTION THE HOUSE INSTITUTES IMPEACHMENT PROCEEDINGS WHILE THE SENATE TRIES THEM.

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WASHINGTON CITY NEWS SERVICE

Jury-Tap Figure Now Calls It 'Not Desirable'

Eastland Seeks Law
Making Felony of
Such Recordings

By J. A. O'LEARY

A former assistant United States attorney, who consented to tape recordings of jury deliberations in a Kansas court last year for purposes of scientific research, told a Senate subcommittee today he now believes this practice is "not desirable."

The witness was Robert M. Cowger, who left the district attorney's office last November.

The Internal Security Subcommittee also heard today how Fred L. Strodbeck, carried out the technical details of recording the deliberations of several juries as part of a study of the jury system being made by the University of Chicago Law School.

Hesitates on Details

Mr. Strodbeck hesitated to tell Committee Counsel J. G. Sourwine how the microphones were concealed in the jury room because he thought this would violate an agreement made with Federal Judge Delmas C. Hill to keep the details of the recording operation confidential.

After consulting with Glenn Lloyd, attorney for the University of Chicago, the witness said the microphones were installed in the walls at opposite ends of the jury room as part of the heating apparatus.

He said they were wired to a tape recorder in the judge's chambers on the floor below.

During the two days of testimony the professors who obtained the recordings have emphasized that the tapes later were edited to eliminate names of the jurors and all other information that would identify the cases when the recordings were played again for the purpose of studying how the juries carried out instructions and arrived at verdicts.

Seeks Kansas Penalty

Earlier today Chairman Eastland, Democrat of Mississippi, announced that he will ask Congress in January to make it a felony for anyone to conceal microphones or otherwise attempt to record jury deliberations.

He said Senator Jenner, Republican of Indiana, will join in sponsoring the legislation.

George Templar, former United States attorney in charge of the Kansas District until April 1954, testified that no one ever sought his permission to make tape recordings.

He said he learned of the tape recordings in July of this year when portions of them were played at a conference of judges of the Tenth Circuit at Estes Park, Colo.

When Mr. Sourwine asked if any Supreme Court justices were present, Mr. Templar said Justice Tom Clark attended the conference, but he could not say whether he was present when the jury recordings were played.

Might Be Misleading

When Mr. Strodbeck testified that geographical locations as well as names mentioned in the jury room were changed in the editing of the recordings, Mr. Sourwine suggested that the

See JURIES, Page A-4

JURIES

Continued From First Page
playing of such a recording at the judge's conference might mislead the judges in cases where pertinent laws in other States were mentioned.

William C. Farmer, the present United States attorney in Kansas, said no one has sought his permission to make recordings. He testified that the Department of Justice is strongly opposed to the practice. But Mr. Cowger, who consented to the recordings, said he was not familiar with any Department of Justice rule on the subject except what he had heard at today's hearing.

Paul R. Kitch, a Wichita lawyer, who helped arrange for the recordings, defended it as one means of finding out how to improve the jury system. He said he had a hard time convincing the faculty of the University of Chicago that it could be done. He said Edward H. Levi, dean of the university's law school, first told him they could never get permission for such recordings.

Opposition

Mr. Kitch testified with one or two exceptions, a judge with whom he discussed it at first was violently opposed to such an experiment. He said that, with one exception, they have since changed their minds.

Mr. Kitch told the subcommittee there is an urgent need to have the courts prepare their instructions to juries in terms laymen can understand. He testified that these instructions on the law have been refined so that they are safe against reversal on appeal, but are difficult for juries to understand.

During five hours of questioning yesterday, Dr. Levi and another member of the law school faculty defended the limited taking of such recordings for research purposes, but failed to shake the feeling of Senators Eastland and Jenner that any eavesdropping in a jury room is destructive of the privacy that has always surrounded the American jury system.

500 to 1,000 Juries

Edward H. Kalven, Jr., a member of the faculty working on the project denied the research staff had planned to make tape recordings of between 500 and 1,000 juries.

The denial came when Senator Eastland quoted Assistant Attorney General Warren E. Burger as having charged in a Minnesota speech yesterday that the University of Chicago had considered such a program.

The Associated Press quoted Mr. Burger as telling a regional meeting of the American Bar Association in St. Paul:

"This project was apparently not to be an isolated or a tentative thing by any means. The correspondence which has been made available indicates that the research project was of very sweeping proportions and contemplated the surveillance and surreptitious eavesdropping on 500 to 1,000 juries to get a cross section of the entire country."

"That is clearly false, and the Department of Justice had reason to know it," said Prof. Kalven.

Under questioning Prof. Kalven admitted that he wrote a letter to former President Truman several years ago, asking clemency for Ethel and Julius Rosenberg, who were executed as atomic spies.

"I did, sir, and I have the letter with me," said Prof. Kalven, when the question was put to him by Senator Eastland. He said he wrote the letter as a private citizen. He also confirmed having joined a group of persons in signing another appeal in behalf of the Rosenbergs.

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Jury Snooping

The professor in charge of the University of Chicago's jury study has said that the school intends to continue planting concealed microphones in jury rooms "if we deem it appropriate from the standpoint of our research at some future time."

The suggestion of arrogance in this statement may or not have been intended. And the question is not important. What is important is that appropriate action be taken to put a stop once and for all to this business of eavesdropping on the deliberations of juries.

It ought to be stopped by the judges. And the publicity evoked by this incident may bring about that result. But the fact is that in this instance the appropriate judges and the participating lawyers gave consent to the planting of the microphone. Only the jurors were not consulted and did not know that a recording device was taking down the deliberations in what we fondly think of as the privacy of the jury room. So it may be that legislation is necessary.

One way or another, however, a halt must be called to jury snooping. For the traditional right to a fair trial certainly is going to be impaired if, in the future, every jury must wonder whether a hidden microphone has brought a thirteenth person into the jury room.

POSSIBLE OBSTRUCTION OF JUSTICE,
 UNIVERSITY OF CHICAGO,
 FEDERAL COURT, WICHITA,
 KANSAS. May, 1954.

No request for investigation received to date.

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Probers Hit Recording of Jury Debate As Snooping

Actions Defended
As System Aid;
Questions Include
Pro-Red Allegations

By Murray Marder
Staff Reporter

Senate investigators condemned the recording of jury deliberations as dangerous "snooping" yesterday, while University of Chicago officials defended it as worthwhile research.

Dean Edward H. Levi of the University's law school told the Senate Internal Security Subcommittee that the placing of hidden microphones in a Federal jury room at Wichita, Kans., last year, was part of a project to "strengthen the jury system."

The project had the approval of the trial judge, the chief judge, attorneys for both sides in the six civil cases involved, and has been endorsed by many law officials, said Levi.

"Regardless," said Chairman James O. Eastland (D-Miss.), "the fact is, that you violated the very reason that we have secret deliberations by juries."

Eastland and Sen. William E. Jenner (R-Ind.) labelled it inexcusable "snooping" and "eavesdropping" which they said endangers the whole jury system.

Dean Levi and Prof. Harry Kalven Jr., of the University of Chicago Law School, came under heavy personal challenge as the Subcommittee veered off into their own associations and actions.

As a result, about half of yesterday's hearing centered on their pasts and on alleged pro-Communist activities at the university over a period of many years. The Subcommittee, which had planned to complete the hearing in one day, reached only three witnesses and will continue its inquiry today.

Levi testified that he was a member of the National Lawyers Guild from 1936 until the early 1940s. He said he quit when he began to hear charges against it.

Attorney General Herbert Brownell Jr. has sought to put the Guild on his so-called "sub-See TAP, Page 17, Col. 1

TAP—From Page 1

versive" list, and the Guild is challenging that action.

Kalven, now in charge of the jury study project at the university, acknowledged that he had sent to former President Truman an appeal for "clemency" for executed atom spies Julius and Ethel Rosenberg. He said he anticipated questions on that and brought documents along on it.

Those lines of questioning were opened up following a statement by Jenner at the outset of the hearings in which he explained why the Subcommittee was departing from its usual practice of first screening witnesses' testimony in closed session.

Jenner said he was sure the hearing would involve no "irresponsible charges," and that it was unlikely "that any of the witnesses today are going to call any of the other witnesses, or other persons, Communists or subversives."

Under Ford Grant

Dean Levi told the Subcommittee that the "hugging" of the Wichita jury room was part of a research project in law and the social sciences for which the university originally received \$400,000 from the Ford Foundation.

Levi said the projects are divided into studies of the jury system, commercial arbitration, and Federal income tax issues. The jury study, which began in 1952, is the largest of the group, he said. Levi said it is aimed at studying how a jury operates, to what extent its members understand the judge's instructions, and how they handle difficult problems of evidence.

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Jedean Court, Wichita Kansas 20 1954

"Isn't it true," asked Eastland, "that you intended to bug the deliberations of juries in 500 to 1000 cases?"

Kalven said it was not. Eastland then cited a speech delivered in St. Paul yesterday by Assistant Attorney General Warren E. Burger, which Eastland said made that assertion.

"I would say that statement is clearly false and the Department of Justice has good reason to know what the facts are," said Kalven.

He then added that while

there are no "immediate" plans for any further recording, "I would be in favor of doing this in a very limited number of additional cases."

Kalven said, "I'm personally talking about another 5 or 10 cases."

Voices "Guarantee"

"Well I'll guarantee you, cut in Eastland, "that you are not going to do any "bugging" after Congress has passed some legislation."

Replied Kalven, "Well, I'll admit, sir, the situation has changed somewhat." That brought a burst of laughter.

Attorney General Brownell said last week that, "We in the Department of Justice are unequivocally opposed to any recording or eavesdropping on the deliberations of a jury under any conditions, regardless of the purpose."

The disputed recordings, with names reportedly changed to prevent identity, were played before the Federal Judges of the 10th Circuit at their judicial conference at Estes Park, Colo., last summer. Chief Judge Orin Phillips has been quoted as saying that "certain safeguards" were used in the recording project "to make

sure no harm was done to any one."

Assistant Attorney General Burger told a regional meeting of the American Bar Association yesterday at St. Paul that recording a jury's deliberations is "no more defensible" than if the jurors and attorneys agreed to record a judge's private talks with his law clerk.

Burger said that "one of the professors guiding this (jury tapping) project" stated:

"It is the hope of the research committee that a minimum of 500 transcriptions can be assembled over the next three-year period."

One attorney who agreed to have the jury deliberations recorded in a case he was handling, Logan Green of Garden City, Kans., yesterday testified briefly before the Subcommittee.

Green said that United States District Judge Delmas C. Hill had obtained from him and the opposing attorney in a civil case permission for the University of Chicago team to make a secret recording in the jury room.

Asked by Subcommittee Counsel J. G. Sourwine if he would now consent to such a proposal, Green said, "I don't think I would."

Dean Levi testified that the whole recording project was based on an agreement that there would be "no publicity" about it.

Sees Breach

Eastland said that agreement was breached when the news broke that the recordings were played before the 10th Circuit Federal Judges' conference. Levi said the university had no control over that. He said, "We gave up custody (of the recordings) at the request of (Chief) Judge Phillips."

The recording project was

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under way at the same time the project directors were sampling the reactions of test "juries" to improvise cases, the Subcommittee was told. The transcribing of actual jury deliberations, said Levi, originally was not part of the project but was only added after it was suggested by several Chicago lawyers, natives in which 500 Federal and state judges have reported their views on how they might decide cases if they had given the verdicts instead of juries.

Served in Justice Department

Levi told the Subcommittee that from 1940 to 1948, he served in the Justice Department, and in addition also was once the counsel to a House anti-monopoly investigating subcommittee.

Midway through Levi's testimony, the questioning shifted to the pro-Communist issues. He had testified that some of his relations with the Ford Foundation were conducted through Bernard Berelson, formerly of the University of Chicago.

"Did you know," asked Sourwine, "whether Berelson was a member of the welcoming committee for the 'Red Dean of Canterbury' in 1948?"

"No sir, I did not," replied Levi.

Levi was subsequently questioned about his membership in the Lawyer's Guild. He then was asked if he also was a member of a group of lawyers who in 1948 "assailed the tactics of the House Un-American Activities Committee as a spy hunt?"

The university dean said he did not know if he had participated. Later, when shown a clipping, he said he recalled the criticisms of the House Committee.

Hutchins' Name Brought In

At several points during

Levi's testimony, questioning brought up the name of Robert M. Hutchins, former chancellor of the University of Chicago and now president of the Fund for the Republic. The Fund, organized with a Ford Foundation grant, is critically regarded by many members of the Subcommittee. Levi said Hutchins was unconnected with, and unaware of, the jury-listening project at the time.

Kalven, in his round of questioning, was interrogated at length about his views on the Rosenberg case. He said he had studied it, given some talks on it, and "I've never quite been able to make up my mind about the case."

He said he "by no means" was convinced the Rosenbergs were "completely innocent," but that some of the evidence and the death penalty verdict had left him "a little uneasy." Asked by Eastland if he thought there was "a reasonable doubt of their guilt," Kalven replied, "I find that a very difficult question to answer."

Sure of Jurisdiction

Senator Eastland, in opening the hearing, said there "may be some criticism of the Subcommittee in this instance for venturing into a matter which does not appear to involve subversives or subversion." But Eastland said it is "clear in my own mind that this Subcommittee does have jurisdiction to go as far as we propose to go." Other Subcommittees of the Senate Judiciary Committee, Eastland said, and the full Committee itself "certainly... also might have jurisdiction." But he said there has been no "challenge" of his Subcommittee's jurisdiction.

Jenner, in a statement, read part of an editorial from The Washington Post and Times Herald criticizing the jury-tapping as an "impairment of privacy"—which Jenner said fully expressed his own views. Such listening-in, said Jenner, "must color the thinking of all juries, from now on until appropriate action has been taken to insure that this eavesdropping on juries will not recur in any single instance."



UNITED PRESS
EDWARD H. LEVI
... tells of jury "tap"

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Abuse of Power

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Yesterday's session of the Senate Internal Security Subcommittee involved a disgraceful distortion of the congressional investigating power. On the pretext of investigating an attempt by the University of Chicago Law School to learn about the operations of juries—an attempt which, in the judgment of this newspaper, was conducted in a misguided and improper manner—the dean of the law school and a respected professor were interrogated as though they were suspected of subversion. A reputable and responsible local lawyer was subpoenaed by the subcommittee—for no reason, apparently, save that he wrote a letter to this newspaper expressing views about the law school study at variance with the views of subcommittee members.

To begin with, the Internal Security Subcommittee is not an appropriate body to conduct these hearings; no question of internal security is involved here. If, as *The Washington Post and Times Herald* believes, a mistake was made in putting a concealed tape recorder in a jury room at Wichita, it was a mistake made in entire good faith and with the approval of the district judge conducting the trial and the chief judge of the circuit. There was no occasion to subpoena witnesses who would have come before the subcommittee willingly and cheerfully at an invitation; there was no occasion to treat these witnesses as though they were engaged in some conspiracy. Legislation to protect juries may be in order. But this method of going about formulating it is a pointless abuse of the power to investigate.

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FEDERAL COURT, WICHITA, KANSAS - MAY 1954

10—THE WASHINGTON DAILY NEWS, THURSDAY, OCTOBER 13, 1955
'Thinking People Might Differ'

Is Jury-Bugging Ever a Good Idea?

By DON MAY

Prof. Harry Kalven Jr., of the University of Chicago Law School, said frankly that "thinking people might differ" as to whether it was a good idea to wire a Federal court jury room in Wichita, Kan., to see what the jurors talked about while deliberating.

He and Dr. Edward H. Levi, dean of the law school, told the Senate Internal Security sub-committee yesterday that they and a large number of lawyers and judges they named feel it was a sound and valuable project.

It is important for lawyers and judges to know more about the jury system, they said. How do jurors actually decide cases? Do they understand the sometimes complicated instructions from the judges? How do they handle subtle problems of evidence?

CRITICISMS

For 100 years in this country and others, they said, conscientious lawyers have had criticisms of the jury system and debated its value in some kinds of cases. England, they said, has been using juries less and less in civil cases.

They and others at the university began a thoro study into the jury system in 1952, with Ford Foundation funds, they said. It included polling judges, lawyers and jurors, sitting in on court cases, observing "mock juries" and, finally, secretly tape recording actual jury deliberations in six civil cases in Wichita.

The recordings were made, they said, with the consent of the chief judge of the circuit and the trial judges and lawyers in each case.

They kept the recordings under lock and key, they said, and have given them to no one except the judges of the 10th Federal Circuit,

who played them at their conference in Estes Park, Colo.

Committee Chairman James O. Eastland (D., Miss.) described this as a "public" session, but Dr. Levi told a reporter he thought only the judges heard the recordings. They were edited, he said, so as not to reveal identities.

The committee never cleared up how public the judges' session was.

Prof. Kalven said that to record 1000 juries or even several hundred would be "excessive" and might well cause jurors to be fearful of speaking their mind during deliberations. He conceded also that "jury-bugging" could be handled unscrupulously.

But, he said, "Thru the consent of lawyers and judges, for scientific purposes, a few juries from time to time may be recorded. I don't think

that will strike fear in the minds of anyone."

Chairman Eastland and Sen. William Jenner (R., Ind.), former chairman, both made introductory statements to the effect that this was to be a new kind of hearing for the committee. It would have nothing to do with communism or subversion, they said.

But before long the committee was asking Dr. Levi if he knew this and that person who belonged to

this and that organization formerly on the subversive list and was asking Prof. Kalven why he wrote letters criticizing the death sentence of Julius and Ethel Rosenberg as spies. This occupied 50 per cent of the hearing.

The day ended with Sen. Eastland telling Prof. Kalven: "Why, you know that there's been no real attack on the American jury system. Don't you realize that? Except Andre Vishinski, and this is what he said."

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ADD 12 JURY

EASTLAND AND JENNER SAID IT WAS "BESIDE THE POINT" THAT RESEARCHERS CLAIMED THE JURY-TAPPING WAS DONE FOR "SCIENTIFIC" PURPOSES AND THAT EFFORTS WERE MADE TO KEEP ALL NAMES AND CASES SECRET.

DECLARING IT IMPOSSIBLE TO KEEP FACTS SECRET IN SUCH INSTANCES, THEY SAID THE MERE FACT THE RECORDINGS WERE MADE AND THAT THIS IS KNOWN "POSES THE THREAT TO FREE DELIBERATION IN ALL SUBSEQUENT CASES."

"A JUROR MUST KNOW THAT WITHIN THE WALLS OF THE JURYROOM HE MAY SPEAK FREELY..." THE SENATOR SAID. "THIS IS A RIGHT WHICH MAY NOT BE TRANSFERRED BY EITHER ATTORNEYS OR JUDGES; IT RESTS ON A CONSTITUTIONAL GUARANTEE."

THE SENATORS ALSO QUESTIONED WHETHER THE FORD FOUNDATION HAD "GONE BEYOND THE BOUNDS OF ANY PURPOSES IT HAS THE RIGHT TO CLAIM" IN FINANCING THE STUDY.

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(CELLER)

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ADD 8 JURY

DEAN LEVI, IN A STATEMENT DISTRIBUTED BY A UNIVERSITY OF CHICAGO SPOKESMAN AFTER THE HEARINGS, SAID:

"THE HEARINGS HAVE SHOWN THAT OUR JURY STUDY HAS BEEN CARRIED ON UNDER CAREFULLY ESTABLISHED SAFEGUARDS. ITS PURPOSE IS SOLELY TO IMPROVE THE JURY SYSTEM."

LEVI SAID THE PROGRAM WAS APPROVED BY OUTSTANDING LAWYERS, JUDGES AND LEGAL SCHOLARS, INCLUDING CHARLES E. CLARK, SENIOR JUDGE OF THE SECOND CIRCUIT; THE PRESIDENT, PRESIDENT-ELECT AND FIVE PAST PRESIDENTS OF THE ASSOCIATION OF AMERICAN LAW SCHOOLS; HOWARD L. BARKDOLL, PAST PRESIDENT OF THE AMERICAN BAR ASSOCIATION, AND DEAN ALBERT J. HARNOW OF THE UNIVERSITY OF ILLINOIS LAW SCHOOL.

"I VERY MUCH HOPE THE AMERICAN BAR ASSOCIATION, AS THE ORGANIZATION MOST REPRESENTATIVE OF THE BENCH AND BAR, WILL MAKE A CAREFUL STUDY OF THIS SUBJECT AND OF THE PROPER ROLE OF BASIC RESEARCH IN HELPING TO PRESERVE AND STRENGTHEN AMERICAN INSTITUTIONS," LEVI SAID.

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RELEASE AT 6:00 P.M. EST)

SENATE INVESTIGATORS PROMISED "SEVERE PUNISHMENT" FOR ANY FUTURE JURY EAVESDROPPING AND HINTED THAT IMPEACHMENT PROCEEDINGS MAY BE LAUNCHED AGAINST FEDERAL JUDGES RESPONSIBLE FOR PREVIOUS INSTANCES.

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DD 10 JURY

CHAIRMAN JAMES O. EASTLAND (D-MISS.) AND SEN. WILLIAM E. JENNER (IND.) OF THE SENATE INTERNAL SECURITY SUBCOMMITTEE BLASTED THE TAP-RECORDING OF JURY PROCEEDINGS IN WICHITA AS A "FLAGRANT ABUSE OF AUTHORITY."

THEY ALSO SAID IT WAS A VIOLATION OF THE CONSTITUTIONAL RIGHT OF TRIAL BY JURY.

THE TWO SENATORS SAID THEIR SUBCOMMITTEE COULD "NOT PROPERLY INQUIRE INTO THE CONDUCT" OF FEDERAL JUDGES BECAUSE IT IS AN ARM OF THE SENATE. THEY SAID THEY WILL RECOMMEND THAT THE TRANSCRIPT OF THEIR HEARINGS ON THE JURY-TAPPING BE SENT TO THE HOUSE JUDICIARY COMMITTEE "FOR ITS INFORMATION."

EASTLAND REFUSED TO ELABORATE. UNDER THE CONSTITUTION, HOWEVER, THE HOUSE INSTITUTES IMPEACHMENT PROCEEDINGS AGAINST JUDGES. IF THE HOUSE VOTES FOR IMPEACHMENT, THE CASE IS TRIED BY THE SENATE, ACTING AS A COURT.

10/13--JC556P

DD 11 JURY

PAUL R. KITCH, WICHITA, KAN., ATTORNEY WHO SAID HE "SOLD" THE JURY-TAPPING PROJECT TO THE UNIVERSITY OF CHICAGO LAW SCHOOL, TESTIFIED THAT SUPREME COURT JUSTICE TOM C. CLARK AND U.S. SOLICITOR GENERAL SIMON E. SOBELOFF HEARD THE RECORDINGS AT ESTES PARK.

SOBELOFF WAS NOT IMMEDIATELY AVAILABLE FOR COMMENT. THE JUSTICE DEPARTMENT, FOR WHICH SOBELOFF WORKS, GAVE NO HINT IT WAS AWARE OF THE JURY-TAPPING UNTIL ATTORNEY GENERAL BROWNELL BLASTED THE PRACTICE OCT. 5.

EASTLAND AND JENNER, IN A FORMAL STATEMENT CONCLUDING THEIR HEARINGS ON THE ISSUE, SAID JURY-TAPPING IS A SERIOUS THREAT TO THE RIGHT OF TRIAL BY JURY.

THEY SAID THEY WILL INTRODUCE LEGISLATION TO PROVIDE "SEVERE PUNISHMENT FOR ANY PERSON OR GROUP INVADING THE PRIVACY OF THE JURY ROOM FOR THE PURPOSE OF EAVESDROPPING OR RECORDING A JURY'S DELIBERATIONS."

10/13--N625P

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Senators Will Seek Law Barring Jury Tapping

Eastland and Jenner Would Make
Recording of Deliberations a Felony

By J. A. O'LEARY

Chairman Eastland of the Senate Internal Security Subcommittee said today he will ask Congress to make it a felony for anyone to install microphones in a jury room. He said Senator Jenner, Republican of Indiana, a subcommittee member, also favors such action.

The Senator made the announcement as the subcommittee heard more witnesses today on the tape recordings that were made of the deliberations of half a dozen juries in Kansas courts last year. The recordings were part of a study of the jury system being carried on by the University of Chicago Law School with funds provided by the Ford Foundation.

Defend Action

During five hours of questioning yesterday, two members of the law school faculty defended the limited taking of such recordings for research purposes, but failed to shake the feeling of Senators Eastland and Jenner that any eavesdropping in a jury room is destructive of the privacy that has always surrounded the American jury system.

The testimony of the professors was that it was done in these few cases with the approval of the judges and lawyers for both sides. Although the jurors were not told their discussions were being recorded, the law school officials contended adequate safeguards were taken to prevent any injury to the jury system.

They said the tapes were to be kept secret, that all identifying passages were to be edited out and the remaining material used only to determine how juries understand and carry out the

instructions of the court in arriving at verdicts.

The two principal witnesses yesterday were Prof. Edward H. Levi, dean of the University of Chicago Law School, and Prof. Harry J. Kalven, Jr., a member of the faculty working on the jury survey.

500 to 1,000 Juries

Prof. Kalven denied the research staff had planned to make tape recordings of between 500 and 1,000 juries.

The denial came when Senator Eastland quoted Assistant Attorney General Warren E. Burger as having charged in a Minnesota speech yesterday that the University of Chicago had considered such a program.

A text of Mr. Burger's speech released by the Justice Department contained the statement that "the whole project is said to contemplate a check on 500 to 1,000 juries in all."

"That is clearly false, and the Department of Justice had reason to know it," said Prof. Kalven.

But the witness would not foreclose the possibility that another five or 10 recordings might be made if the courts deemed it appropriate and the researchers thought it would be worthwhile.

"I will guarantee you are not going to do any more of it after Congress passes new legislation on the subject," Senator Eastland broke in.

Senator Jenner asked why the professors had eavesdropped only on civil cases and how they could make a comprehensive report on the jury system with criminal juries excluded.

The witness indicated that

See JURIES, Page A-4

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EDWARD H. LEVI
Testifies on Eavesdropping

—AP Photo

JURIES

Continued From First Page
there were some additional factors to be considered in criminal cases, but that he personally thought it would be proper to take recordings of juries in criminal cases under the same safeguards that applied to last year's sample recordings in civil cases.

Under questioning Prof. Kalven admitted that he wrote a letter to former President Truman several years ago, asking clemency for Ethel and Julius Rosenberg, who were executed as atomic spies.

"I did, sir, and I have the letter with me," said Prof. Kalven, when the question was put to him by Senator Eastland. He said he wrote the letter as a private citizen. He also confirmed having joined a group of persons in signing another appeal in behalf of the Rosenbergs.

Prof. Kalven said he has never been able to form a firm conclusion about the guilt or innocence of the Rosenbergs and that his appeal for clemency was based on some doubts about the propriety of the death penalty.

The subcommittee also heard Logan Green, a Garden City (Kan.) attorney, who was counsel in one of the civil cases in

which the jury proceedings were tape recorded. He said he voiced no objection at the time, but testified that he did not think he would agree to it again if he were making the decision today.

Probers Hit Recording of Jury Debate As Snooping

**Actions Defended
As System Aid;
Questions Include
Pro-Red Allegations**

By Murray Marder
Staff Reporter

Senate investigators condemned the recording of jury deliberations as dangerous "snooping" yesterday, while University of Chicago officials defended it as worthwhile research.

Dean Edward H. Levi of the University's law school told the Senate Internal Security Subcommittee that the placing of hidden microphones in a Federal jury room at Wichita, Kans., last year was part of a project to "strengthen the jury system."

The project had the approval of the trial judge, the chief judge, attorneys for both sides in the six civil cases involved, and has been endorsed by many law officials, said Levi.

"Regardless," said Chairman James O. Eastland (D-Miss.), "the fact is that you violated the very reason that we have secret deliberations by juries."

Eastland and Sen. William E. Jenner (R-Ind.) labelled it inexcusable "snooping" and "eavesdropping" which they said endangers the whole jury system.

Dean Levi, and Prof. Harry Kalven Jr., of the University of Chicago Law School, came under heavy personal challenge as the Subcommittee veered off into their own associations and actions.

As a result, about half of yesterday's hearing centered on their pasts and on alleged pro-Communist activities at the university over a period of many years. The Subcommittee, which had planned to complete the hearing in one day, reached only three witnesses and will continue its inquiry today.

Levi testified that he was a member of the National Lawyers Guild from 1936 until "the early 1940s." He said he quit when he began to hear charges against it.

Attorney General Herbert Brownell Jr. has sought to put the Guild on his so-called "sub-

See TAP, Page 17, Col. 1

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TAP—From Page 1

versive" list, and the Guild is challenging that action.

Kalven, now in charge of the jury study project at the university, acknowledged that he had sent to former President Truman an appeal for "clemency" for executed atom spies Julius and Ethel Rosenberg. He said he anticipated questions on that and brought documents along on it.

Those lines of questionings were opened up following a statement by Jenner at the outset of the hearings in which he explained why the Subcommittee was departing from its usual practice of first screening witnesses' testimony in closed sessions.

Jenner said he was sure the hearing would involve no "irresponsible charges," and that it was unlikely "that any of the witnesses today are going to call any of the other witnesses, or other persons, Communists or subversives."

Under Ford Grant

Dean Levi told the Subcommittee that the "bugging" of the Wichita jury room was part of a research project in law and the social sciences for which the university originally received \$400,000 from the Ford Foundation.

Levi said the projects are divided into studies of the jury system, commercial arbitration, and Federal income tax issues. The jury study, which began in 1952, is the largest of the group, he said. Levi said it is aimed at studying how a jury operates, to what extent its members understand the judge's instructions, and how they handle difficult problems of evidence.

"Isn't it true," asked Eastland, "that you intended to 'bug' the deliberations of juries in 500 to 1000 cases?"

"Kalven said it was not," Eastland then cited a speech delivered in St. Paul yesterday by Assistant Attorney General Warren E. Burger, which Eastland said made that assertion.

"I would say that statement is clearly false and the Department of Justice has good reason to know what the facts are," said Kalven.

He then added that while recording project "to make



United Press

EDWARD H. LEVI
... tells of jury "tap"

there are no "immediate" plans for any further recording. "I would be in favor of doing this in a very limited number of additional cases."

Kalven said, "I'm personally talking about another 5 or 10 cases."

Voices "Guarantee"

"Well I'll guarantee you," cut in Eastland, "that you are not going to do any 'bugging' after Congress has passed some legislation."

Replied Kalven, "Well, I'll admit, sir, the situation has changed somewhat." That brought a burst of laughter.

Attorney General Brownell said last week that, "We in the Department of Justice are unequivocally opposed to any recording or eavesdropping on the deliberations of a jury under any conditions, regardless of the purpose."

The disputed recordings, with names reportedly changed to prevent identity, were played before the Federal judges of the 10th Circuit at their judicial conference at Estes Park, Colo., last summer. Chief Judge Orin Phillips has been quoted as saying that "certain safeguards" were used in the

sure no harm was done to anyone."

Assistant Attorney General Burger told a regional meeting of the American Bar Association yesterday at St. Paul that recording a jury's deliberations is "no more defensible" than if the jurors and attorneys agreed to record a judge's private talks with his law clerk.

Burger said that "one of the professors guiding this (jury tapping) project" stated:

"It is the hope of the research committee that a minimum of 500 transcriptions can be assembled over the next three-year period."

One attorney who agreed to have the jury deliberations recorded in a case he was handling, Logan Green of Garden City, Kans., yesterday testified briefly before the Subcommittee.

Green said that United States District Judge Delmas C. Hull had obtained from him and the opposing attorney in a civil case permission for the University of Chicago team to make a secret recording in the jury room.

Asked by Subcommittee Counsel J. G. Sourwine if he would now consent to such a proposal, Green said, "I don't think I would."

Dean Levi testified that the whole recording project was based on an agreement that there would be "no publicity" about it.

Sees Breach

Eastland said that agreement was breached when the news broke that the recordings were played before the 10th Circuit Federal judges' conference. Levi said the university had no control over that. He said, "We gave up custody (of the recordings) at the request of (Chief) Judge Phillips."

The recording project was

under way at the same time the project directors were sampling the reactions of test "juries" to improvise cases, the Subcommittee was told. The transcribing of actual jury deliberations, said Levi, originally was not part of the project but was only added after it was suggested by several Chicago lawyers, natives in which 500 Federal and state judges have reported their views on how they might decide cases if they had given the verdicts, instead of juries.

Served in Justice Department.

Levi told the Subcommittee that from 1940 to 1943, he served in the Justice Department, and in addition also was once the counsel to a House anti-monopoly investigating subcommittee.

Midway through Levi's testimony, the questioning shifted to the pro-Communist issues. He had testified that some of his relations with the Ford Foundation were conducted through Bernard Berelson, formerly of the University of Chicago.

"Did you know," asked Sourwine, "whether Berelson was a member of the welcoming committee for the Red Dean of Canterbury in 1948?"

"No sir, I did not," replied Levi.

Levi was subsequently questioned about his membership in the Lawyer's Guild. He then was asked if he also was a member of a group of lawyers who in 1948 "assailed the tactics of the House Un-American Activities Committee as a spy hunt?"

The university dean said he did not know if he had participated. Later, when shown a clipping, he said he recalled the criticisms of the House Committee.

Hutchins Name Brought In

At several points during

Levi's testimony, questioning brought up the name of Robert M. Hutchins, former chancellor of the University of Chicago and now president of the Fund for the Republic. The Fund, organized with a Ford Foundation grant, is critically regarded by many members of the Subcommittee. Levi said Hutchins was unconnected with, and unaware of, the jury-listening project at the time.

Kalven, in his round of questioning, was interrogated at length about his views on the Rosenberg case. He said he had studied it, given some talks on it, and "I've never quite been able to make up my mind about the case."

He said he "by no means" was convinced the Rosenbergs were "completely innocent," but that some of the evidence and the death penalty verdict had left him "a little uneasy." Asked by Eastland if he thought there was "a reasonable doubt of their guilt," Kalven replied, "I find that a very difficult question to answer."

Sure of Jurisdiction

Senator Eastland, in opening the hearing, said there "ma-

be some criticism of the Subcommittee in this instance for venturing into a matter which does not appear to involve subversives or subversion." But Eastland said it is "clear in my own mind that this Subcommittee does have jurisdiction to go as far as we propose to go."

Other Subcommittees of the Senate Judiciary Committee, Eastland said, and the full Committee itself "certainly" also might have jurisdiction. But he said there has been no "challenge" of his Subcommittee's jurisdiction.

Jenner, in a statement, read part of an editorial from The Washington Post and Times Herald criticizing the jury-tapping as an impairment of privacy—which Jenner said fully expressed his own views. Such listening-in, said Jenner, "must color the thinking of all juries from now on until appropriate action has been taken to insure that their eavesdropping on juries will not recur in any single instance."

Jury Plan Indorsements Cited

Dean Edward H. Levi of the the Senate Internal Security University of Chicago Law Subcommittee prevented him School declared last night that

from airing more than 20 indorsements from distinguished members of the bar and bench of the University's controversial recording of jury proceedings.

Levi, a witness at subcommittee hearings yesterday, was allowed to put the statements into the record, but was not permitted to read them before the subcommittee members, the press and public.

He said all of the statements commended the jury research project and all but one, signed by five judges of the Illinois Appellate Court, specifically approved that aspect of the inquiry which entailed the placement of hidden microphones in the jury rooms of a number of civil trials.

Members of the Senate Internal Security Subcommittee denounced the project yesterday as dangerous snooping and an invasion of the privacy of the jury system.

Levi said one statement which he was prevented from reading publicly yesterday was signed by the president, president-elect and five past presidents of the Association of

American Law Schools. Another from Chief Judge Charles E. Clark of the Second Circuit, said after hearing the recordings that the research being done by the project was "important and desirable."

An approving comment by Howard Barkdull, former president of the American Bar Association, read:

"Recording of actual jury deliberation, under careful supervision of court and with consent of counsel, constitutes a useful research tool in improving the administration of justice. The successful operation of American courts depends on the effectiveness of the jury system and requires constant study for means of correcting all points of weakness or abuse. The benefits of (the project's) recording greatly outweigh the objections."

There were similar statements from past and present heads of the Iowa, Arkansas, Illinois and Chicago Bar Associations, Levi said.

He added that he thought the subcommittee refused him permission to read the statements because those conducting the hearing "knew what was in them."

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Jury Tap Defended At Probe

Senators Hear Chicago Law Dean

By The Associated Press

WASHINGTON, Oct. 12.—Dean Edward H. Levi of the University of Chicago Law School today defended the "bugging" of a jury's deliberations as a legitimate part of a research project designed to strengthen the American jury system.

Mr. Levi testified before the Senate Internal Security subcommittee after Sen. James O. Eastland, D. Miss. chairman, and the ranking Republican, Sen. William E. Jenner, of Ind., blasted all "snooping" and "eavesdropping" in jury rooms. They spoke of possible Federal laws to stop such practices.

The subcommittee later asked Mr. Levi whether he had been associated with a number of persons and organizations described as pro-Communist. The law school dean said he knew of no pro-Red ties on his part—that he quit one of the groups named, the National Lawyers Guild, after charges were made that it was pro-Communist.

Tape Recording at Issue

Today's hearing delved into the tape recording by means of a concealed microphone of Federal Court jury deliberations at Wichita, Kan. The recording was part of a \$1,400,000 study financed by the Ford Foundation.

Attorney General Herbert Brownell Jr. has declared himself "unequivocally opposed" to this practice. Sen. Eastland declared today that "the integrity of the jury system" is involved in any listening in on jury room deliberations.

"Legislation will, I am sure, result from this hearing," Sen. Eastland said. The Internal Security group is a unit of the Senate Judiciary Committee, which would initiate such legislation. The subcommittee normally devotes itself to problems of subversion.

Mr. Levi testified the tape recording at Wichita was done with permission of the United States judge for the district, Delmar Hill, and with the approval of a number of leading jurists, including Chief Judge Orville L. Phillips of the 10th.

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Jury Tapping

(Continued from page one)

United States Circuit Court of Appeals.

The witness said precautions were taken to safeguard the identity of the jurors and "to preserve the integrity of the jury system." He voiced the belief the long-term study of how juries operate "should contribute to the strengthening—and not the weakening—of this important institution."

"Don't you realize," Sen. Eastland asked him, "that snooping on a jury does violence to secret deliberations?"

"Senator, on that I think reasonable people differ," Mr. Levi replied.

He testified that the Ford Foundation was not told in advance of the plan to listen in on the Wichita jury. But he said that after the tape recording incident became known the foundation granted \$1,000,000, on top of a previous \$400,000, for a social science study of which the jury inquiry is a part.

Signer of 1948 Letter

Committee counsel J. G. Sourwine questioned Mr. Levi, a former Justice Department official under the Roosevelt administration, about a long list of individuals and organizations at the University of Chicago and elsewhere. Mr. Levi said he never heard of most of the organizations, and he knew of no organized Communist activity at the university.

Asked if he knew an I. E. Ferguson, described by Mr. Sourwine as a former leader of the Communist party, Mr. Levi said he knew an I. E. Ferguson as "a very distinguished leader of the Chicago bar." But he said he didn't know the man well enough to identify him from a newspaper picture produced by the committee lawyer.

Mr. Levi identified himself as a signer of a 1948 letter to "the Chicago Daily News" describing the activities of the House Committee on Un-American activities as a "spy hunt."

In the present inquiry the subcommittee abandoned its usual practice of hearing witnesses in executive session before receiving their testimony at public hearings.

Sen. Jenner said in an opening statement the reason for this was that "this hearing is in the nature of a public inquiry, for the purpose of putting the facts on record, rather than an investigation."

"I do not think," Sen. Jenner said, "there is any likelihood that any of the witnesses today are going to call any of the other witnesses, or any other persons, Communists or subversives. I think, therefore, it is entirely proper that this hearing should be conducted as the subcommittee proposes to conduct it."

Says Judges Consented

Prof. Harry Kalven Jr., of the University of Chicago, who supervised the tapping of jury deliberations, told the subcommittee that arrangements for listening on the jury proceedings were made with the consent of Federal judges as part of a study to strengthen the jury system. Prof. Kalven said that, under the circumstances, he saw no reason why it should "strike fear into the hearts" of jurors in other cases.

Sen. Eastland asked Prof. Kalven whether he had written a letter to former President Truman asking clemency for Julius and Ethel Rosenberg.

"I did, sir," replied Prof. Kalven. He added he would be pleased to read the letter although he said it would be "somewhat long and tedious."

Spoke on Rosenbergs

Further questioning brought out that he also was among the signers of an earlier "general statement" urging clemency for the Rosenbergs. Sen. Eastland said the Communist "Daily Worker" had carried a story saying the clemency petition was signed by eighty-nine persons in Chicago, including Prof. Kalven.

Prof. Kalven also testified he had made two or three speeches about the Rosenberg case at meetings on the University of Chicago campus. He said he was interested in the case "as a legal problem."

PATERNALISTIC SNOOPERS

THE way Dean Edward H. Levi tells it, that high-level jury snooping in Wichita last year—which only recently came to light—would have been all right if no one had found out about it.

That's about what we can take from his testimony before a Senate hearing committee.

Dean Levi is head of the University of Chicago Law School which is embarked on a study of the jury system with money donated by the Ford Foundation. When it turned out the Levi project had made secret tape recordings of the jury deliberations in six Wichita cases, Attorney General Brownell and the Eastland committee of the Senate both opened investigations.

The Chicago dean testified he and his fellow jury-testers had no idea of playing back the recordings in public, and carefully edited out all personal identifications. But some Federal judges, appallingly enough, wanted to hear the recordings.

Dean Levi attempted to justify this snooping with statements from a number of lawyers and judges which appeared to approve the project. Which may explain, more than any possible jury weaknesses, whatever may be wrong with the practice and administration of law in this country.

The Dean said the purpose of the Ford Foundation project was to improve the jury system, and suggested the only way to find out how jurors think was to eavesdrop on them. Didn't any of these do-gooders ever serve on a jury?

It turns out the Ford Foundation not only gave Dean Levi's law school \$400,000 for its study project, but last August kicked in \$1,000,000 more. That's enough money to shadow almost every juror who ever sat on a case.

There may be shortcomings in the jury system. Jurors, being people, have their individual faults, not unlike lawyers. But the system won't be improved by scuttling it, and that's what this kind of prying into jury deliberations will do.

Some professorial intellects seem to think our time-honored institutions can't be quite right until they have applied their precious minds to them.

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'Thinking People Might Differ'

Is Jury-Bugging Ever a Good Idea?

By DON MAY

Prof. Harry Klaven Jr., of the University of Chicago Law School, said frankly that "thinking people might differ" as to whether it was a good idea to wire a Federal court jury room in Wichita, Kan., to see what the jurors talked about while deliberating.

He and Dr. Edward H. Levi, dean of the law school, told the Senate Internal Security sub-committee yesterday that they and a large number of lawyers and judges they named feel it was a sound and valuable project.

It is important for lawyers and judges to know more about the jury system, they said. How do jurors actually decide cases? Do they understand the sometimes complicated instructions from the judges? How do they handle subtle problems of evidence?

CRITICISMS

For 100 years in this country and others, they said, conscientious lawyers have had criticisms of the jury system and debated its value in some kinds of cases. England, they said, has been using juries less and less in civil cases.

They and others at the university began a thoro study into the jury system in 1952, with Ford Foundation funds, they said. It included polling judges, lawyers and jurors, sitting in on court cases, observing "mock juries" and, finally, secretly tape recording actual jury deliberations in six civil cases in Wichita.

The recordings were made, they said, with the consent of the chief judge of the circuit and the trial judges and lawyers in each case.

They kept the recordings under lock and key, they said, and have given them to no one except the judges of the 10th Federal Circuit

who played them at their conference in Estes Park, Colo.

Committee Chairman James O. Eastland (D., Miss.) described this as a "public" session, but Dr. Levi told a reporter he thought only the judges heard the recordings. They were edited, he said, so as not to reveal identities.

The committee never cleared up how public the judges' session was.

Prof. Kalven said that to record 1000 juries or even several hundred would be "excessive" and might well cause jurors to be fearful of speaking their mind during deliberations. He conceded also that "jury-bugging" could be handled unscrupulously.

But, he said, "Thru the consent of lawyers and judges, for scientific purposes, a few juries from time to time may be recorded. I don't think

that will strike fear in the minds of anyone."

Chairman Eastland and Sen. William Jenner (R., Ind.), former chairman, both made introductory statements to the effect that this was to be a new kind of hearing for the committee. It would have nothing to do with communism or subversion, they said.

But before long the committee was asking Dr. Levi if he knew this and that person who belonged to this and that organization formerly on the subversive list and was asking Prof. Kalven why he wrote letters criticizing the death sentence of Julius and Ethel Rosenberg as spies. This occupied 50 per cent of the hearing.

The day ended with Sen. Eastland telling Prof. Kalven: "Why, you know that there's been no real attack on the American jury system. Don't you realize that? Except Andre Vishinski, and this is what he said..."

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ADD 12 JURY

EASTLAND AND JENNER SAID IT WAS "BESIDE THE POINT" THAT RESEARCHERS CLAIMED THE JURY-TAPPING WAS DONE FOR "SCIENTIFIC" PURPOSES AND THAT EFFORTS WERE MADE TO KEEP ALL NAMES AND CASES SECRET.

DECLARING IT IMPOSSIBLE TO KEEP FACTS SECRET IN SUCH INSTANCES, THEY SAID THE MERE FACT THE RECORDINGS WERE MADE AND THAT THIS IS KNOWN "POSES THE THREAT TO FREE DELIBERATION IN ALL SUBSEQUENT CASES."

"A JUROR MUST KNOW THAT WITHIN THE WALLS OF THE JURYROOM HE MAY SPEAK FREELY..." THE SENATOR SAID. "THIS IS A RIGHT WHICH MAY NOT BE TRANSFERRED BY EITHER ATTORNEYS OR JUDGES; IT RESTS ON A CONSTITUTIONAL GUARANTEE."

THE SENATORS ALSO QUESTIONED WHETHER THE FORD FOUNDATION HAD "GONE BEYOND THE BOUNDS OF ANY PURPOSES IT HAS THE RIGHT TO CLAIM" IN FINANCING THE STUDY.

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POSSIBLE OBSTRUCTION OF JUSTICE

UNIVERSITY OF CHICAGO

SCAPPE COURT, WICHITA, KANSAS MAY 19

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WASHINGTON CITY NEWS SERVICE

Public Obstruction of Justice
 University of Chicago
 General Court, Winnetka, Ill. - 1954

Jury Snooping A 26

The professor in charge of the University of Chicago's jury study has said that the school intends to continue planting concealed microphones in jury rooms "if we deem it appropriate from the standpoint of our research at some future time."

The suggestion of arrogance in this statement may or not have been intended. And the question is not important. What is important is that appropriate action be taken to put a stop once and for all to this business of eavesdropping on the deliberations of juries.

It ought to be stopped by the judges. And the publicity evoked by this incident may bring about that result. But the fact is that in this instance the appropriate judges and the participating lawyers gave consent to the planting of the microphone. Only the jurors were not consulted and did not know that a recording device was taking down the deliberations in what we fondly think of as the privacy of the jury room. So it may be that legislation is necessary.

One way or another, however, a halt must be called to jury snooping. For the traditional right to a fair trial certainly is going to be impaired if, in the future, every jury must wonder whether a hidden microphone has brought a thirteenth person into the jury room.

Mr. Tolson ☒
 Mr. Boardman ☒
 Mr. Nichols ☒
 Mr. Belmont ☒
 Mr. Harbo ☒
 Mr. Mohr ☒
 Mr. Parsons ☒
 Mr. Rosen ☒
 Mr. Tamm ☒
 Mr. Sizoo ☒
 Mr. Winterrowd ☒
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 Mr. Holloman ☒
 Miss Gandy ☒

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ADD 9 JURY

(RELEASE AT 6:00 P.M. EST) .

SENATE INVESTIGATORS PROMISED "SEVERE PUNISHMENT" FOR ANY FUTURE
JURY EAVESDROPPING AND HINTED THAT IMPEACHMENT PROCEEDINGS
MAY BE LAUNCHED AGAINST FEDERAL JUDGES RESPONSIBLE FOR PREVIOUS
INSTANCES.

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WASHINGTON CITY NEWS SERVICE

Mr. Tolson _____
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ADD 8 JURY

DEAN LEVI, IN A STATEMENT DISTRIBUTED BY A UNIVERSITY OF CHICAGO SPOKESMAN AFTER THE HEARINGS, SAID:

"THE HEARINGS HAVE SHOWN THAT OUR JURY STUDY HAS BEEN CARRIED ON UNDER CAREFULLY ESTABLISHED SAFEGUARDS. ITS PURPOSE IS SOLELY TO IMPROVE THE JURY SYSTEM."

LEVI SAID THE PROGRAM WAS APPROVED BY OUTSTANDING LAWYERS, JUDGES AND LEGAL SCHOLARS, INCLUDING CHARLES E. CLARK, SENIOR JUDGE OF THE SECOND CIRCUIT; THE PRESIDENT, PRESIDENT-ELECT AND FIVE PAST PRESIDENTS OF THE ASSOCIATION OF AMERICAN LAW SCHOOLS; HOWARD L. BARKDULL, PAST PRESIDENT OF THE AMERICAN BAR ASSOCIATION, AND DEAN ALBERT J. HARNOW OF THE UNIVERSITY OF ILLINOIS LAW SCHOOL.

"I VERY MUCH HOPE THE AMERICAN BAR ASSOCIATION, AS THE ORGANIZATION MOST REPRESENTATIVE OF THE BENCH AND BAR, WILL MAKE A CAREFUL STUDY OF THIS SUBJECT AND OF THE PROPER ROLE OF BASIC RESEARCH IN HELPING TO PRESERVE AND STRENGTHEN AMERICAN INSTITUTIONS," LEVI SAID.

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WASHINGTON CITY NEWS SERVICE

Jury-Tap Figure Now Calls It 'Not Desirable'

Eastland Seeks Law
Making Felony of
Such Recordings

By J. A. O'LEARY

A former assistant United States attorney, who consented to tape recordings of jury deliberations in a Kansas court last year for purposes of scientific research, told a Senate subcommittee today he now believes this practice is "not desirable."

The witness was Robert M. Cowger, who left the district attorney's office last November.

The Internal Security Subcommittee also heard today how Fred L. Strodtbeck carried out the technical details of recording the deliberations of several juries as part of a study of the jury system being made by the University of Chicago Law School.

Hesitates on Details

Mr. Strodtbeck hesitated to tell Committee Counsel J. G. Sourwine how the microphones were concealed in the jury room because he thought this would violate an agreement made with Federal Judge Delmas C. Hill to keep the details of the recording operation confidential.

After consulting with Glenn Lloyd, attorney for the University of Chicago, the witness said the microphones were installed in the walls at opposite ends of the jury room as part of the heating apparatus.

He said they were wired to a tape recorder in the judge's chambers on the floor below.

During the two days of testimony the professors who obtained the recordings have emphasized that the tapes later were edited to eliminate names of the jurors and all other information that would identify the cases when the recordings were played again for the purpose of studying how the juries carried out instructions and arrived at verdicts.

Seeks Felony Penalty

Earlier today Chairman Eastland, Democrat of Mississippi, announced that he will ask Congress in January to make it a felony for anyone to conceal microphones or otherwise attempt to record jury deliberations.

He said Senator Jenner, Republican of Indiana, will join in sponsoring the legislation.

George Templar, former United States attorney in charge of the Kansas District until April 1954, testified that no one ever sought his permission to make tape recordings.

He said he learned of the tape recordings in July of this year when portions of them were played at a conference of judges of the Tenth Circuit at Estes Park, Colo.

When Mr. Sourwine asked if any Supreme Court justices were present, Mr. Templar said Justice Tom Clark attended the conference, but he could not say whether he was present when the jury recordings were played.

Might Be Misleading

When Mr. Strodtbeck testified that geographical locations as well as names mentioned in the jury room were changed in the editing of the recordings, Mr. Sourwine suggested that the

See JURIES, Page A-4

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JURIES

500 to 1,000 Juries

Continued From First Page
playing of such a recording at the judge's conference might mislead the judges in cases where pertinent laws in other States were mentioned.

William C. Farmer, the present United States attorney in Kansas, said no one has sought his permission to make recordings. He testified that the Department of Justice is strongly opposed to the practice. But Mr. Cowger, who consented to the recordings, said he was not familiar with any Department of Justice rule on the subject except what he had heard at today's hearing.

Paul R. Kitch, a Wichita lawyer, who helped arrange for the recordings, defended it as one means of finding out how to improve the jury system. He said he had a hard time convincing the faculty of the University of Chicago that it could be done. He said Edward H. Levi, dean of the university's law school, first told him they could never get permission for such recordings.

Opposition Changed

Mr. Kitch testified that, with one or two exceptions, every judge with whom he discussed it at first was violently opposed to such an experiment. He said that, with one exception, they have since changed their minds.

Mr. Kitch told the subcommittee there is an urgent need to have the courts prepare their instructions to juries in terms laymen can understand. He testified that these instructions on the law have been refined so that they are safe against reversal on appeal, but are difficult for juries to understand.

During five hours of questioning yesterday, Dr. Levi and another member of the law school faculty defended the limited taking of such recordings for research purposes, but failed to shake the feeling of Senators Eastland and Jenner that any eavesdropping in a jury room is destructive of the privacy that has always surrounded the American jury system.

Edward H. Kalven, Jr., a member of the faculty working on the project, denied the research staff had planned to make tape recordings of between 500 and 1,000 juries.

The denial came when Senator Eastland quoted Assistant Attorney General Warren E. Burger as having charged in a Minnesota speech yesterday that the University of Chicago had considered such a program.

The Associated Press quoted Mr. Burger as telling a regional meeting of the American Bar Association in St. Paul:

"This project was apparently not to be an isolated or a tentative thing by any means. The correspondence which has been made available indicates that the research project was of very sweeping proportions and contemplated the surveillance and surreptitious eavesdropping on 500 to 1,000 juries to get a cross section of the entire country."

That is clearly false, and the Department of Justice had reason to know it," said Prof. Kalven.

Under questioning Prof. Kalven admitted that he wrote a letter to former President Truman several years ago, asking clemency for Ethel and Julius Rosenberg, who were executed as atomic spies.

"I did, sir, and I have the letter with me," said Prof. Kalven, when the question was put to him by Senator Eastland. He said he wrote the letter as a private citizen. He also confirmed having joined a group of persons in signing another appeal in behalf of the Rosenbergs.

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 Mr. Holloman ☒
 Miss Gandy ☒

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Don't know
Keep it

ADD 10 JURY

CHAIRMAN JAMES O. EASTLAND (D-MISS.) AND SEN. WILLIAM E. JENNER (R-IND.) OF THE SENATE INTERNAL SECURITY SUBCOMMITTEE BLASTED THE TAPE-RECORDING OF JURY PROCEEDINGS IN WICHITA AS A "FLAGRANT ABUSE OF AUTHORITY."

THEY ALSO SAID IT WAS A VIOLATION OF THE CONSTITUTIONAL RIGHT OF TRIAL BY JURY.

THE TWO SENATORS SAID THEIR SUBCOMMITTEE COULD "NOT PROPERLY INQUIRE INTO THE CONDUCT" OF FEDERAL JUDGES BECAUSE IT IS AN ARM OF THE SENATE. THEY SAID THEY WILL RECOMMEND THAT THE TRANSCRIPT OF THEIR HEARINGS ON THE JURY-TAPPING BE SENT TO THE HOUSE JUDICIARY COMMITTEE "FOR ITS INFORMATION."

EASTLAND REFUSED TO ELABORATE. UNDER THE CONSTITUTION, HOWEVER, THE HOUSE INSTITUTES IMPEACHMENT PROCEEDINGS AGAINST JUDGES. IF THE HOUSE VOTES FOR IMPEACHMENT, THE CASE IS TRIED BY THE SENATE, ACTING AS A COURT.

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Seventh Amendment

Last week's disclosure that some Federal District Court judges in the Tenth Circuit allowed a microphone to be placed in a jury room, points up a problem that all lawyers should concern themselves with. The microphone provided tape recordings of the juries' deliberations in each of five civil cases for a study being made under a Ford Foundation grant to the University of Chicago Law School.

The aim of the study is to improve "the administration of the court system." The issue which must be faced is whether such a study, though it is well-intentioned, may cause serious and irreparable harm to the jury system.

Attorney General Brownell disapproves of the project because "such practices . . . obviously and inevitably stifle the discussion and free exchange of ideas between jurors." Also, he finds the project "inconsistent with the purposes of the Seventh Amendment" which requires that trial by jury be preserved.

These criticisms are valid. However, it has become increasingly apparent that the jury system does not meet all of our judicial needs in this century. Various jurisdictions have already modified the unanimity rule and in some types of cases have abolished the jury entirely. Serious proposals have been made to the effect that automobile negligence cases be heard by administrative commissions in order to clear up the inordinately long jury dockets in the courts.

It is important to understand that the basic issue here involved is not the merits of the jury system itself; rather it is the question of what means shall we take to obtain information about the effectiveness of the system. If the means chosen are such that the harm done overshadows any constructive changes, then we shall indeed have won a Pyrrhic victory. It is imperative that groups such as the one making this study carefully select their courses of activity.

There are other methods that may be used to learn much of the same information that the University of Chicago Law School group is now learning. Mock trials heard by regularly constituted juries who have no knowledge of the simulation; actual trials being heard by a mock jury specially constituted for the purpose and informed of the nature of their function; recordings of judges' instructions to juries and counsel's summations before the jury; these are all valid research techniques. Admittedly, each of them contains some element that is either not authentic or is incomplete in the information it provides. However, they do contain the common attribute of making virtually no infringement on the integrity of the present jury system; and yet they provide desirable insight into the efficiency of the system.

There is room for improvement. We simply exhort those who would study the system to consider the full implications of their actions before it is too late to rectify any wrongs that are done.

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Harvard Law School
 Record, Cambridge, Mass.
 Date Oct. 13, 1955

Hearings Stated On News Policy

A House subcommittee looking into Federal Government information practices and policies announced today it will hold public hearings from November 7 through November 11.

Representative Moss, Democrat of California, chairman of the House Government Operations Subcommittee, said the opening session will be a panel discussion in which editors and other spokesmen for newspapers, news magazines, radio and television news operations will take part.

Witnesses later will include some cabinet officers and heads of various major agencies, he said.

A main purpose of the inquiry, Mr. Moss explained, will be to determine whether there has been a "brown-out" of information the public and the press are entitled to in detail and without delay from departments and agencies.

The subcommittee staff has been analyzing replies received in recent weeks from more than 60 departments and agencies. Questionnaires distributed last August contained some 80 queries about the nature and extent of information given out by the various agencies concerning their activities.

The staff reported today that it has obtained responses from all agencies queried. It promised that a digest of the replies will be published either before or during the public hearings next month.

Mr. Tolson ☒
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Date OCT 13 1955

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Abuse of Power

Yesterday's session of the Senate Internal Security Subcommittee involved a disgraceful distortion of the congressional investigating power. On the pretext of investigating an attempt by the University of Chicago Law School to learn about the operations of juries—an attempt which, in the judgment of this newspaper, was conducted in a misguided and improper manner—the dean of the law school and a respected professor were interrogated as though they were suspected of subversion. A reputable and responsible local lawyer was subpoenaed by the subcommittee—for no reason, apparently, save that he wrote a letter to this newspaper expressing views about the law school study at variance with the views of subcommittee members.

To begin with, the Internal Security Subcommittee is not an appropriate body to conduct these hearings; no question of internal security is involved here. If, as *The Washington Post and Times Herald* believes, a mistake was made in putting a concealed tape recorder in a jury room at Wichita, it was a mistake made in entire good faith and with the approval of the district judge conducting the trial and the chief judge of the circuit. There was no occasion to subpoena witnesses who would have come before the subcommittee willingly and cheerfully at an invitation; there was no occasion to treat these witnesses as though they were engaged in some conspiracy. Legislation to protect juries may be in order. But this method of going about formulating it is a pointless abuse of the power to investigate.

Mr. Tolson ☒
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Probers Hit Recording of Jury Debate As Snooping

**Actions Defended
As System Aid;
Pro-Red Links
Questioned**

By Murrey Marder
Staff Reporter

Senate investigators condemned the recording of jury deliberations as dangerous "snooping" yesterday, while University of Chicago officials defended it as worthwhile research.

Dean Edward H. Levi of the University's law school told the Senate Internal Security Subcommittee that the placing of hidden microphones in a jury room at Wichita, Kans., last year was part of a project to "strengthen the jury system."

The project had the approval of the trial judge, the chief judge, attorneys for both sides in the six civil cases involved, and has been endorsed by many law officials, said Levi.

"Regardless," said Chairman James O. Eastland (D-Miss.), "the fact is that you violated the very reason that we have secret deliberations by juries."

Eastland and Sen. William E. Jenner (R-Ind.) labelled it inexcusable "snooping" and "eavesdropping" which they said endangers the whole jury system.

Dean Levi, and Prof. Harry Kalven Jr., of the University of Chicago Law School, came under heavy personal challenge as the Subcommittee veered off into their own associations and actions.

As a result, about half of yesterday's hearing centered on their pasts and on alleged pro-Communist activities at the university over a period of many years. The Subcommittee, which had planned to complete the hearing in one day, reached only three witnesses and will continue its inquiry today.

Levi testified that he was a member of the National Lawyers Guild from 1936 until "the early 1940s." He said he quit when he began to hear charges against it.

Attorney General Herbert Brownell Jr. has sought to put the Guild on his so-called "sub-

See TAP, Page 17, Col. 1

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Senators Say Recordings

Peril Jury System

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TAP—From Page 1

versive" list, and the Guild is challenging that action.

Kalven, now in charge of the jury study project at the university, acknowledged that he had sent to former President Truman an appeal for "clemency" for executed atom spies Julius and Ethel Rosenberg. He said he anticipated questions on that and brought documents along on it.

Those lines of questionings were opened up following a statement by Jenner at the outset of the hearings in which he explained why the Subcommittee was departing from its usual practice of first screening witnesses' testimony in closed session.

Jenner said he was sure the hearing would involve no "irresponsible charges," and that it was unlikely that any of the witnesses today are going to call any of the other witnesses, or other persons, Communists or subversives."

Under Ford Grant

Dean Levi told the Subcommittee that the "bugging" of the Wichita jury room was part of a research project in law and the social sciences for which the university originally received \$400,000 from the Ford Foundation.

The microphone recording project was not discussed in advance with the Foundation, said Levi.

But since the Foundation learned of that project, he said, it approved in August an additional \$1 million for the university's special research programs.

Levi said the projects are divided into studies of the jury system, commercial arbitration, and Federal income tax issues. The jury study, which began in 1952, is the largest of the group, he said. Levi said it is aimed at studying how a jury operates, to what extent its members understand the judge's instructions, and how they handle difficult problems of evidence.

Kalven called the secret transcriptions of conversations in the jury room "a final test of the realism of what we were doing" in the overall study.

"Isn't it true," asked East

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United Press

EDWARD H. LEVI

tells of jury 'tap'

land, "that you intended to 'bug' the deliberations of juries in 500 to 1000 cases?"

Kalven said it was not. Eastland then cited a speech delivered in St. Paul yesterday by Assistant Attorney General Warren E. Burger, which Eastland said made that assertion.

"I would say that statement is clearly false, and the Department of Justice has good reason to know what the facts are," said Kalven.

He then added that while there are no "immediate" plans for any further recording, "I would be in favor of doing this in a very limited number of additional cases."

Kalven said, "I'm personally talking about another 5 or 10 cases."

Voices "Guarantee"

"Well, I'll guarantee you," cut in Eastland, "that you are not going to do any bugging after Congress has passed some legislation."

Replied Kalven, "Well, I'll admit, sir, the situation has changed somewhat." That brought a burst of laughter.

Attorney General Brownell said last week that, "We in the Department of Justice are

unequivocally opposed to any recording or eavesdropping on the deliberations of a jury under any conditions, regardless of the purpose.

The disputed recordings, with names reportedly changed to prevent identity, were played before the Federal judges of the 10th Circuit at their judicial conference at Estes Park, Colo., last summer. Chief Judge Orin Phillips has been quoted as saying that "certain safeguards" were used in the recording project "to make sure no harm was done to anyone."

Assistant Attorney General Burger told a regional meeting of the American Bar Association yesterday at St. Paul that recording a jury's deliberations is "no more defensible" than if the jurors and attorneys agreed to record a judge's private talks with his law clerk.

Burger said that "one of the professors guiding this (jury tapping) project" stated:

"It is the hope of the research committee that a minimum of 500 transcriptions can be assembled over the next three-year period."

Not Identified

Burger did not identify the professor. However, Burger quoted at length from what he described as "instructions" to "insure secrecy" in the recording use. Burger later said "the research project was of very sweeping proportions and contemplated the surveillance and surreptitious eavesdropping of 500 to 1000 juries to get a cross-section of the entire country."

The statements by Burger, contrasted to the testimony of Levi and Kalven, leaves the record with a gaping discrepancy at this point.

One attorney who agreed to project also involved question

have the jury deliberations recorded in a case he was handling, Logan Green of Garden City, Kans., yesterday testified briefly before the Subcommittee.

Green said that United States District Judge Delmas C. Hill had obtained from him and the opposing attorney in a civil case permission for the University of Chicago team to make a secret recording in the jury room.

Asked by Subcommittee Counsel J. G. Sourwine if he would now consent to such a proposal, Green said, "I don't think I would."

Dean Levi testified that the whole recording project was based on an agreement that there would be "no publicity" about it.

Sees Breach

Eastland said that agreement was breached when the news broke that the recordings were played before the 10th Circuit Federal judges' conference. Levi said the university had no control over that. He said, "We gave up custody (of the recordings) at the request of (Chief) Judge Phillips."

Levi and Kalven testified that originally in the recording project Judge Phillips had said that the jury deliberations could be recorded only if the jurors informed that was to be done. But later, they said, the judge withdrew that restriction.

The recording project was under way at the same time the project directors were sampling the reactions of test "juries" to improvise cases, the Subcommittee was told. The transcribing of actual jury deliberations, said Levi, originally was not part of the project but was only added after it was suggested by several Chicago lawyers.

In addition, said Levi, the project also involved question

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naires in which 500 Federal and state judges have reported their views on how they might decide cases if they had given the verdicts, instead of juries.

Served in Justice Department

Levi told the Subcommittee that from 1940 to 1945, he served in the Justice Department, and in addition also was once the counsel to a House anti-monopoly investigating subcommittee.

Midway through Levi's testimony, the questioning shifted to the pro-Communist issues. He had testified that some of his relations with the Ford Foundation were conducted through Bernard Berelson, formerly of the University of Chicago.

"Did you know," asked Sourwine, "whether Berelson was a member of the welcoming committee for the 'Red Dean of Canterbury' in 1948?"

"No, sir, I did not," replied Levi.

Levi was subsequently questioned about his membership in the Lawyer's Guild. He then was asked if he also was a member of a group of lawyers who in 1948 "assailed the tactics of the House Un-American Activities Committee as a spy hunt?"

The university dean said he did not know if he had participated. Later, when shown a clipping, he said he recalled the criticisms of the House Committee. Levi was asked if an I. E. Ferguson who signed the same statement was a Communist leader. He said he couldn't believe that; "the Mr. Ferguson that I know," he said, "is a very distinguished member of the Chicago bar."

Hutchins's Name Brought In

At several points during Levi's testimony, questioning brought up the name of Robert M. Hutchins, former chancellor of the University of Chicago and now president of the Fund for the Republic. The Fund, organized with a Ford Foundation grant, is critically regarded by many members of the Subcommittee. Levi said Hutchins was unconnected with, and unaware of, the jury-listening project at the time.

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Abuse of Power

Yesterday's session of the Senate Internal Security Subcommittee involved a disgraceful distortion of the congressional investigating power. On the pretext of investigating an attempt by the University of Chicago Law School to learn about the operations of juries—an attempt which, in the judgment of this newspaper, was conducted in a misguided and improper manner—the dean of the law school and a respected professor were interrogated as though they were suspected of subversion. A reputable and responsible local lawyer was subpoenaed by the subcommittee—for no reason, apparently, save that he wrote a letter to this newspaper expressing views about the law school study at variance with the views of subcommittee members.

To begin with, the Internal Security Subcommittee is not an appropriate body to conduct these hearings; no question of internal security is involved here. If, as *The Washington Post and Times Herald* believes, a mistake was made in putting a concealed tape recorder in a jury room at Wichita, it was a mistake made in entire good faith and with the approval of the district judge conducting the trial and the chief judge of the circuit. There was no occasion to subpoena witnesses who would have come before the subcommittee willingly and cheerfully at an invitation; there was no occasion to treat these witnesses as though they were engaged in some conspiracy. Legislation to protect juries may be in order. But this method of going about formulating it is a pointless abuse of the power to investigate.

Mr. Tolson _____
 Mr. Boardman _____
 Mr. Nichols _____
 Mr. Belmont _____
 Mr. Harbo _____
 Mr. Mohr _____
 Mr. Parsons _____
 Mr. Rosen ☒ _____
 Mr. Tamm _____
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 Mr. Winterrowd _____
 Tele. Room _____
 Mr. Holloman _____
 Miss Gandy _____

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 Wash. Star _____
 N. Y. Herald Tribune _____
 N. Y. Mirror _____
 Daily Worker _____
 The Worker _____
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Date 10-13-57

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FOR INFORMATION OF THE
 DIRECTOR OF THE FBI
 FROM THE SENATE
 OCT 13 1957

10 OCT 1957

Mr. Tolson ☒
 Mr. Boardman ☒
 Mr. Nichols ☒
 Mr. Belmont ☒
 Mr. Harbo ☒
 Mr. Mohr ☒
 Mr. Parsons ☒
 Mr. Rosen ☒
 Mr. Tamm ☒
 Mr. Sizoo ☒
 Mr. Winterrowd ☒
 Tele. Room ☒
 Mr. Holloman ☒
 Miss Gandy ☒

FEDERAL COURT, WICHITA KANSAS, MAY 1954

ADD 11 JURY

PAUL R. KITCH, WICHITA, KAN., ATTORNEY WHO SAID HE "SOLD" THE JURY-TAPPING PROJECT TO THE UNIVERSITY OF CHICAGO LAW SCHOOL, TESTIFIED THAT SUPREME COURT JUSTICE TOM C. CLARK AND U.S. SOLICITOR GENERAL SIMON E. SOBELOFF HEARD THE RECORDINGS AT ESTES PARK.

SOBELOFF WAS NOT IMMEDIATELY AVAILABLE FOR COMMENT. THE JUSTICE DEPARTMENT, FOR WHICH SOBELOFF WORKS, GAVE NO HINT IT WAS AWARE OF THE JURY-TAPPING UNTIL ATTORNEY GENERAL BROWNELL BLASTED THE PRACTICE OCT. 5.

EASTLAND AND JENNER, IN A FORMAL STATEMENT CONCLUDING THEIR HEARINGS ON THE ISSUE, SAID JURY-TAPPING IS A SERIOUS THREAT TO THE RIGHT OF TRIAL BY JURY.

THEY SAID THEY WILL INTRODUCE LEGISLATION TO PROVIDE "SEVERE PUNISHMENT FOR ANY PERSON OR GROUP INVADING THE PRIVACY OF THE JURY ROOM FOR THE PURPOSE OF EAVESDROPPING OR RECORDING A JURY'S DELIBERATIONS."

10/13--N625P

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OCT 27 1955

WASHINGTON CITY NEWS SERVICE

8-20

Mr. Tolson ☒
 Mr. Boardman ☒
 Mr. Nichols ☒
 Mr. Belmont ☒
 Mr. Harbo ☐
 Mr. Mohr ☐
 Mr. Parsons ☐
 Mr. Rosen ☐
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 Mr. Sizoo ☐
 Mr. Winterrowd ☐
 Tele. Room ☐
 Mr. Holloman ☐
 Miss Gandy ☐

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 FEDERAL COURT, WICHITA KANSAS. MAY 1954

ADD 1 JURY (922A)
 ROBERT M. COWGER, FORMER ASSISTANT U.S. ATTORNEY IN KANSAS,
 TESTIFIED TODAY HE CONSENTED TO THE RECORDING "FOR SCIENTIFIC PURPOSES"
 OF JURY PROCEEDINGS IN THE WICHITA COURT CASE.

COWGER TOLD THE SUBCOMMITTEE HE CONSENTED TO THE RECORDING PROJECT
 AFTER IT WAS OUTLINED BY TWO REPRESENTATIVES OF THE UNIVERSITY OF
 CHICAGO LAW SCHOOL AT A MEETING IN THE CHAMBERS OF FEDERAL DISTRICT
 JUDGE DELMAS HILL WHO WAS HANDLING THE CASE. BUT COWGER COULD NOT
 RECALL WHETHER HILL SAID HE APPROVED THE PROJECT.

THE FORMER ASSISTANT U.S. ATTORNEY REPRESENTED THE GOVERNMENT IN A
 CONDEMNATION CASE IN MAY 1954. HE NOW IS A TOPEKA ATTORNEY.

COWGER'S SUPERIOR, WILLIAM C. FARMER, U.S. DISTRICT ATTORNEY FOR
 KANSAS, SAID HIS PERMISSION WAS NOT SOUGHT OR GRANTED FOR THE RECORDING
 IN THAT CASE OR ANY OTHER. GEORGE TEMPLAR, WHOM FARMER SUCCEEDED AS
 KANSAS U.S. ATTORNEY IN APRIL 1954, TESTIFIED THAT HIS PERMISSION WAS
 NOT SOUGHT.

BOTH FARMER AND TEMPLAR SAID THEY FIRST LEARNED OF THE RECORDINGS
 AFTER A SESSION ON JURY DELIBERATIONS WAS INCLUDED IN THE PROGRAM OF
 THE CONFERENCE FOR THE 10TH JUDICIAL CIRCUIT HELD IN JULY, 1955, IN
 ESTES PARK, COLO.

10/13--EG1125A

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ADD 2 JURY

TEMPLAR TESTIFIED THAT 75 TO 100 PERSONS HEARD PORTIONS OF THE RECORDINGS PLAYED AT THE CONFERENCE. HE SAID ABOUT 20 JUDGES ATTENDED THE CONFERENCE INCLUDING ALL THOSE FROM THE 10TH JUDICIAL CIRCUIT, BUT HE WAS UNABLE TO SAY WHICH ONES HAD BEEN PRESENT AT THE PLAY BACK SESSION.

HE SAID SUPREME COURT JUSTICE TOM C. CLARK WAS AMONG THOSE AT THE CONFERENCE, BUT DID NOT RECALL WHETHER CLARK ATTENDED THE JURY RECORDING PLAY-BACK.

COWGER TESTIFIED THAT HIS PERMISSION FOR RECORDING WAS ONLY SOLICITED ON ONE OCCASION. HE SAID THAT IF JURY RECORDINGS WERE MADE IN A SECOND CASE IT "MUST HAVE BEEN" WITHOUT HIS KNOWLEDGE.

BOTH FARMER AND TEMPLAR TESTIFIED THAT THE JUSTICE DEPARTMENT STRONGLY DISAPPROVES OF ANY EAVESDROPPING. BUT FARMER SAID HE KNOWS OF NO LAW THAT SPECIFICALLY FORBIDS IT.

THE TWO WITNESSES SAID THE OPERATOR WHO PLAYED THE JURY RECORDINGS AT THE ESTES PARK, COLO., MEETING WAS INTRODUCED SIMPLY AS "MR. X." TEMPLAR SAID HE DID NOT KNOW THE MAN, BUT HE IDENTIFIED A MAN IN THE SENATE HEARING ROOM AS THE OPERATOR.

THE MAN IDENTIFIED HIMSELF AS FRED STRODTBECK WHO IS SCHEDULED TO TESTIFY LATER.

FARMER SAID PLAYING OF THE RECORDED JURY PROCEEDINGS WAS PRECEDED BY STATEMENTS OF FACT IN THE CASE GIVEN BY ATTORNEYS MALCOLM MILLER AND WILLIAM TINKER, BOTH OF WICHITA.

HE SAID THERE WERE NO IDENTIFICATIONS IN THE JURY RECORDINGS AND HE THOUGHT THE CASE INVOLVED WAS A MASSACHUSETTS CASE BECAUSE HE HEARD MENTION OF A MASSACHUSETTS STATUTE.

HE SAID THE PROJECT WAS DESCRIBED AS "STRICTLY A STUDY OF JURY DELIBERATIONS WITH THE ULTIMATE OBJECTIVE OF DETERMINING WHETHER JURIES ARE DOING THEIR JOB TO THE BEST OF THEIR ABILITY."

ASKED WHETHER THERE WAS DISCUSSION AT THE JUDICIAL CONFERENCE OF PLANS FOR MAKING FURTHER RECORDINGS, TEMPLAR SAID HE BELIEVES THERE WAS SOME BUT WAS UNABLE TO RECALL DETAILS.

10/13--EG1132A

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Mr. Tolson ☒
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 Mr. Rosen ☐
 Mr. Tamm ☐
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 Tele. Room ☐
 Mr. Holloman ☐
 Miss Gandy ☐

Georgetown COURT, WICHITA KANSAS. MAY 11-14

(JURY)
 TWO SENATORS SAID CONGRESS SHOULD MAKE IT A FELONY TO EAVESDROP ON FEDERAL JURIES.
 CHAIRMAN JAMES O. EASTLAND (D-MISS.) OF THE SENATE INTERNAL SECURITY SUBCOMMITTEE -- WHICH IS INVESTIGATING THE TAPE RECORDING OF FEDERAL JURY DELIBERATIONS IN WICHITA, KAN. -- SAID HE AND SEN. WILLIAM E. JENNER (R-IND.) BELIEVE IT SHOULD BE A PENALTY TO PLANT HIDDEN MICROPHONES IN A JURY ROOM.
 THE SUBCOMMITTEE SUMMONED MORE WITNESSES IN ITS INVESTIGATION OF THE TAPE-RECORDING OF JURY DELIBERATIONS IN SIX CIVIL CASES IN WICHITA.
 SUBCOMMITTEE COUNSEL J. C. SOURWINE IDENTIFIED THE WITNESSES AS ABNER J. MIKVA AND FRED STRODERBECK, MEMBERS OF THE UNIVERSITY OF CHICAGO RESEARCH TEAM WHICH MADE THE RECORDINGS, AND PAUL KITCH, WICHITA ATTORNEY WHO SUGGESTED THEM.

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WASHINGTON CITY NEWS SERVICE

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Mr. Tolson ☒
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 Mr. Sizoo ☒
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 Tele. Room ☒
 Mr. Holloman ☒
 Miss Gandy ☒

Supreme Court, Wichita, Kansas, May 1950

ADD 6 JURY (139P)
 SUPREME COURT JUSTICE TOM C. CLARK AND SOLICITOR GENERAL SIMON E. SOBELOFF HEARD A TAPE RECORDING OF THE JURY DELIBERATIONS LAST SUMMER KITCH TESTIFIED.
 KITCH SAID CLARK AND SOBELOFF, ALONG WITH A NUMBER OF LEADING FEDERAL JUDGES AND ABOUT 100 ATTORNEYS, WERE IN THE AUDIENCE AT THE 10TH CIRCUIT JUDICIAL CONFERENCE AT ESTES PARK, COLO., LAST SUMMER WHEN AN EDITED VERSION OF THE TAPE RECORDING WAS PLAYED.
 KITCH TOLD THE SUBCOMMITTEE THAT A NUMBER OF JUDGES HAD APPROVED THE PROJECT OF RECORDING JURY DELIBERATIONS AS PART OF A STUDY TO IMPROVE THE JURY SYSTEM. HE STOUTLY DEFENDED THE PROJECT.
 HE SAID SOME HAD GIVEN PERMISSION TO MAKE RECORDINGS IN THEIR COURTS IN ADDITION TO CIRCUIT JUDGE ORRIS PHILLIPS AND DISTRICT JUDGE DELMAS WILL, WHO AUTHORIZED SIX RECORDINGS WHICH WERE MADE.
 KITCH SAID JUDGE ROY SAVAGE AND JUDGE STEPHEN S. CHANDLER OF OKLAHOMA CITY HAD GRANTED PERMISSION FOR JURY RECORDINGS, AND HE BELIEVED THAT JUDGE WILLIAM R. WALLACE OF OKLAHOMA CITY HAD ALSO.
 THE SUBCOMMITTEE RECESSED ITS HEARINGS INDEFINITELY AFTER HEARING IRVING FERMAN, WASHINGTON DIRECTOR OF THE AMERICAN CIVIL LIBERTIES UNION, DEPLORE THE RECORDINGS AND PLEAD "THAT THE JURY ROOM REMAIN TIGHTLY CLOSED FOREVER."

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WASHINGTON CITY NEWS SERVICE

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ADD 7 JURY

FERMAN SAID THAT IT IS ESSENTIAL THAT JURY DELIBERATIONS BE KEPT COMPLETELY PRIVATE. HE SAID DISTURBING THIS PRIVACY "CANNOT BE CONDONED, NO MATTER WHAT ULTIMATE VALUE RESULTING FINDINGS MIGHT HAVE IN THE IMPROVEMENT OF OUR SYSTEM."

KITCH SAID ONE FEDERAL JUDGE, JOHN J. PARKER OF CHARLOTTE, N.C., CHIEF JUDGE OF THE FOURTH CIRCUIT, OPPOSED THE RECORDING PROGRAM FROM THE FIRST.

BUT HE NAMED OTHER FEDERAL JUDGES WHO HAD FAVORED THE IDEA OF JURY RECORDINGS BEFORE THE TAPES WERE MADE. THEY INCLUDED ALFRED P. MURRAH OF OKLAHOMA CITY, WHOM KITCH DESCRIBED AS "ONE OF THE PRIME BACKERS," JUDGE WALTER A. HUXMAN OF TOPEKA, KAN., CIRCUIT JUDGE SAM G. BRATTON OF ALBUQUERQUE AND JUDGE JOHN C. PICKETT OF CHEYENNE, WYO.

KITCH DESCRIBED THEM AS "IN SYMPATHY" WITH THE PROGRAM, THOUGH HE SAID THEY GAVE IT NO FORMAL APPROVAL AND WERE CRITICAL OF SOME ASPECTS.

KITCH SAID HIS FIRM WAS CONNECTED WITH ONE OF THE RECORDED CASES, THOUGH HE DID NOT KNOW IN ADVANCE THAT IT WOULD BE RECORDED.

KITCH SAID DEAN EDWARD H. LEVI OF THE UNIVERSITY OF CHICAGO LAW SCHOOL, SUPERVISOR OF THE RESEARCH PROJECT, OBJECTED TO PLAYING THE TAPE AT ESTES PARK. BUT KITCH SAID HE INSISTED ON IT BECAUSE JUDGE PHILLIPS WANTED IT. AND LEVI FINALLY FURNISHED AND EDITED TAPE IN WHICH THE 2-1/2 HOURS OF JURY DELIBERATION WERE CUT TO 30 MINUTES AND ALL IDENTIFYING DETAIL REMOVED.

10/13--RH351P

Make It a Felony

The planting of microphones in a jury room, unbeknown to the jurors, which so shocked the American people seems not to have disturbed the perpetrators of this dismaying act at all. In fact, as we read the dispatches on the subject, the college professor who appears to have spearheaded the movement to listen in secretly on the hitherto inviolate discussions of jurors seems to take a right cocky attitude about it, being proud of what was done and ready to do it again if he gets the chance.

Senator James O. Eastland of Mississippi, chairman of the Senate subcommittee investigating the tape recording of federal jury deliberations in Wichita, Kansas, says he doesn't think the professor will get a chance to eavesdrop on juries again by hiding microphones in their conference rooms. We surely hope Senator Eastland is right when he tells the professors that their verbal Peeping Tom days are over, and we feel that he is right. The public reaction to the eavesdropping has been so strong that the Congress will probably lose no time in outlawing the practice. A letter from Senator Eastland assures us that his committee will pursue this matter both from the standpoint of investigation and legislation with the utmost diligence.

The jury eavesdropping was undertaken by the law school of the University of Chicago as part of a "research" into the operation of the jury system in the United States. The court and the lawyers directly interested consented to the installation of the microphones. The jurors weren't asked. How the judge and lawyers temporarily so lost their sense of propriety as to permit the eavesdropping, we do not know, but they probably won't consent again. The professor sold them one bill of goods; he won't be able to repeat, if we read reactions aright.

Like most researchers, surveyors, and other professional do-gooders in general, the professors involved maintain their project was aimed at helping, not harming, the jury system. Senator Eastland had the right answer to that: The practice violated the keystone of the jury system.

It is the plan of Senator Eastland and of Senator William E. Jenner of Indiana to propose to the Congress that it pass a law making it a felony to plant hidden microphones in a jury room. The law should permit of no exceptions, and the Congress in January should lose no time in passing it.

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BAUMGARTNER

6-*[Signature]*

SAVANNAH EVENING PRESS
SAVANNAH, GEORGIA
OCTOBER 13, 1955

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Mr. Tolson ☒
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 Miss Gandy ☐

RAUMER

[Handwritten signature]

(JURY)
 THE DEAN OF THE UNIVERSITY OF CHICAGO LAW SCHOOL TOLD SENATE INVESTIGATORS HIS RESEARCHERS EAVESDROPPED ON JURIES TO HELP, NOT HARM, THE JURY SYSTEM.
 BUT MEMBERS OF THE SENATE INTERNAL SECURITY SUBCOMMITTEE PROMISED LEGISLATION TO KEEP IT FROM HAPPENING AGAIN.
 DEAN EDWARD H. LEVI TESTIFIED THAT A RESEARCH TEAM UNDER \$1,000,000 GRANT FROM THE FORD FOUNDATION RECORDED DELIBERATIONS OF JURIES IN SIX CIVIL CASES IN FEDERAL DISTRICT COURT IN WICHITA, KANS., IN MAY, 1954.
 HE SAID THIS WAS PART OF A RESEARCH PROJECT AIMED AT STRENGTHENING THE JURY SYSTEM. LEADERS OF THE BAR, HE SAID, HAD OBJECTED THAT PROPOSED RESEARCH WOULD BE INCOMPLETE WITHOUT RECORDINGS OF JURIES ACTUALLY AT WORK.
 LEVI SAID THE RECORDINGS WERE MADE TO LEARN HOW JURIES OPERATE, HOW WELL THEY UNDERSTAND INSTRUCTIONS, HOW THEY HANDLE DIFFICULT PROBLEMS OF EVIDENCE, AND HOW THEIR WORK COULD BE SPEEDED.
 CHAIRMAN JAMES O. EASTLAND (D-MISS.) SAID THE ONLY PROPER WAY TO DO THIS WAS TO CONFER WITH JURORS AFTER THE VERDICT.
 "TO SNOOP ON A JURY DOES VIOLENCE TO EVERY REASON WE HAVE FOR SECRET DELIBERATION," EASTLAND SAID.
 LEVI SAID HE DID NOT AGREE.

10/12--E117P

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WASHINGTON CITY NEWS SERVICE

Mr. Tolson _____
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 Tele. Room _____
 Mr. Holloman _____
 Miss Gandy _____

ADD 1 JURY

EASTLAND SAID A JUROR WOULD HESITATE TO SPEAK HIS MIND IF HE WERE AWARE THAT A HIDDEN MICROPHONE WERE IN THE ROOM. LEVI SAID YES--IF HE KNEW ABOUT IT. BUT LEVI SAID THE RECORDINGS WERE NOT MADE TO BE PLAYED PUBLICLY. THEY WERE TAKEN--WITH THE APPROVAL OF THE CIRCUIT JUDGE, THE TRIAL JUDGE, AND THE ATTORNEYS INVOLVED--WITH AN UNDERSTANDING THEY WOULD BE SO EDITED THAT THE CASES COULD NOT BE IDENTIFIED.

LATER, HE SAID, JUDGE ORRIE PHILLIPS OF THE 10TH CIRCUIT COURT OF APPEALS ORDERED THE RECORDINGS RETURNED TO BE PLAYED AT A CONFERENCE OF JUDGES OF THE 10TH JUDICIAL DISTRICT AT ESTES PARK, COLO.

EASTLAND ASKED LEVI WHY JURY DELIBERATIONS ARE SECRET. LEVI SAID IT WAS SO JURORS COULD STATE THEIR OPINIONS.

"THAT'S THE PRINCIPAL REASON," SAID EASTLAND. "NOW, YOU'VE VIOLATED THAT."

LEVI STARTED TO SAY THAT THE TRIAL JUDGE APPROVED.

"REGARDLESS OF THAT, YOU VIOLATED IT," EASTLAND INTERJECTED. "YOU VIOLATED THE VERY REASON WE HAVE SECRET DELIBERATIONS."

LEVI RELATED THAT WHEN A FORMER DIRECTOR OF THE JURY PROJECT REVEALED PLANS FOR A JURY STUDY, SEVERAL LAWYERS SAID IT WAS NOT REALISTIC WITHOUT RECORDINGS OF JURORS. HE SAID THE LATE EUGENE STANLEY OF WICHITA AND PAUL KITCH OF WICHITA SUGGESTED MAKING TAPE RECORDINGS THERE.

KITCH MADE PRELIMINARY ARRANGEMENTS, THEN THE RESEARCHERS MOVED IN AND WORKED UNDER DIRECTIONS OF THE JUDGES.

SUBCOMMITTEE COUNSEL J. C. SOURVINE ASKED WHAT THE PROJECT HOPED TO PROVE.

"THAT THE JURY IS AN EFFICIENT METHOD OF DECIDING CASES," LEVI REPLIED. "THAT IT CAN BE STRENGTHENED AND PRESERVED, THAT DOUBTS IN SOME QUARTERS ABOUT THE JURY SYSTEM ARE NOT WELL ESTABLISHED."

HE SAID HE DID NOT DISCUSS THE RECORDINGS WITH FORD FOUNDATION OFFICIALS UNTIL AFTER THEY WERE MADE.

LEVI SAID SOME TRANSCRIPTS OF THE TAPE RECORDINGS WERE MADE, AND WERE SUPPOSED TO BE EDITED SO THE CASES COULD NOT BE IDENTIFIED.

10/12--E131P

Mr. Tolson _____
Mr. Boardman _____
Mr. Nichols _____
Mr. Belmont _____
Mr. Harbo _____
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ADD. 2 JURY

HE SAID THE TAPE ALSO WAS TO BE EDITED, AND HE BELIEVED THAT HAD BEEN DONE BEFORE IT WAS PLAYED FOR THE JUDGES. HE SAID A FEW MEMBERS OF THE CHICAGO FACULTY KNEW ABOUT THE RECORDINGS AFTER THEY WERE MADE, BUT HE SAID HE HAS NO PLANS TO DIVULGE THEIR CONTENTS.

10/12--E141P

A2

Senators to Dig Into Reports of Jury-Tapping

Reports of wiretapping in a juryroom in Kansas last year as part of a research project on the workings of the jury system will be aired today by the Senate Internal Security Subcommittee.

The subcommittee has called eight witnesses for a public hearing scheduled to start at 11:30 a.m. The inquiry is expected to be completed this afternoon.

Senator Eastland, Democrat of Mississippi, chairman, has said his purpose is to ascertain what legislation, if any, is needed to prevent a repetition of the occurrence.

"If the sanctity of the juryroom was violated in this case, as reports reaching the subcommittee indicate it was, I consider it one of the greatest blows ever struck at the integrity of our judicial system," Senator Eastland said in announcing the hearings.

The Senator said the basis of the jury system is complete independence of the jurors "in both their thinking about the case and their discussions among themselves of the evidence which has been laid before them."

According to the information reaching the subcommittee, juries in Wichita, Kans., were deliberating on verdicts in a number of civil cases when tape recording devices were installed in the juryroom.

The subcommittee has said its information indicated the demonstrations were carried on by Prof. Harry Calven, Jr., of the University of Chicago Law School, assisted by another lawyer and a sociologist, under the instructions of Dean Edward H. Levi of the University of Chicago Law School.

The subcommittee stated last week that the operation is reported to have been financed by either the Ford Foundation or the Fund for the Republic.

Mr. Tolson _____
Mr. Boardman _____
Mr. Nichols _____
Mr. Belmont ✓ _____
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Mr. Winterrowd _____
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Mr. Holloman _____
Miss Gandy _____

R. J. Sullivan

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Federal Court, Wichita, Kansas
 University of Chicago
 Federal Court, Wichita, Kansas

T.P. CLIPPING
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V. P. [unclear]
Mr. Tolson ☒
Mr. Boardman ☒
Mr. Nichols ☒
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Mr. Harbo ☐
Mr. Mohr ☐
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BAUMGARDNER

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The Worker ☐
New Leader ☐

Date OCT 12 1955

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JERRY COOK, WICHITA, KANSAS, 10/1/55

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Mr. Tolson ☒
 Mr. Boardman ☒
 Mr. Nichols ☒
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 Mr. Holloman ☐
 Miss Gandy ☐

(BURGER)

ST. PAUL, MINN.--THE PRACTICE OF PLANTING TAPE RECORDERS AND MICROPHONES IN JURY ROOMS WAS ATTACKED BY WARREN E. BURGER, ASSISTANT UNITED STATES ATTORNEY GENERAL.

BURGER TOLD A NORTHWEST REGIONAL MEETING OF THE AMERICAN BAR ASSOCIATION THAT SUCH ACTION REPRESENTS AN INVASION OF THE "TRADITIONAL PRIVACY OF THE JURY." HE ADDED THAT "ANYTHING WHICH STRIKES AT THE JURY SYSTEM STRIKES AT THE HEART OF OUR ADMINISTRATION OF JUSTICE."

ALTHOUGH BURGER MADE NO SPECIFIC REFERENCE TO THE CASES IN WHICH JURIES WERE "TAPPED," HE APPARENTLY REFERRED TO MICROPHONE STUDIES THE UNIVERSITY OF CHICAGO STARTED TWO YEARS AGO, BACKED BY FORD FOUNDATION FUNDS.

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WASHINGTON CITY NEWS SERVICE

Jury Tapping Defended Here By Professor

By J. A. O'LEARY

Secret tape recording of jury deliberations in a few cases, under proper safeguards, was defended today by Prof. Edward H. Levi, dean of the University of Chicago Law School, as one proper way of finding out how the jury system may be improved.

He was the first witness in a Senate Internal Security Subcommittee inquiry into the making of such recordings in Kansas last year, with the approval of the court, as part of a study of the jury system, financed by the Ford Foundation.

Dr. Levi said the safeguards included an agreement not to make the recordings public and to remove from the tape all identifying passages.

But Senator Eastland, Democrat of Missouri, chairman, insisted the recordings violated the secrecy thrown around the jury system and predicted the hearings will result in legislation on the subject.

Opinions Vary on Subject

Dr. Levi admitted that reasonable people differ on the wisdom of the tape recordings as part of a research project, but cited statements by many judges and lawyers endorsing the limited use of recordings for research purposes.

The witness insisted that the knowledge gained as to how jurors understand the instructions of the court would strengthen, not weaken, the jury system.

"Wouldn't the proper way to get that information be to confer with the jurors after they have rendered their verdict?" asked Senator Eastland.

Prof. Levi said that would be one way, but he refused to agree with the Senator it is the only way.

"Don't you think that to snoop on the jury while it is deliberating does violence to the jury system?" the Senator pressed.

"Reasonable people differ on that—I do not," the witness answered.

Dr. Levi conceded that if the jurors knew a microphone was in the room it might have some effect on the freedom with which they expressed themselves.

Conference Heard Recordings

Senator Jenner, Republican of Indiana, interrupted to say the recordings were played at a conference of judges, meeting at Estes Park, Col.

Prof. Levi said he has been told that Chief Judge Orrie Phillips of the 10th circuit wanted the recordings played at the conference.

In a prepared statement, Prof. Levi said:

"Only a limited number of recordings were made—six in all. No recordings were made of civil cases without the consent of counsel for each party. In two of the civil cases the Federal Government was a party. I am informed that the consent was given, not by the United States attorney, but by the assistant United States attorney who represented the Government in the litigation. The trial judge in each case placed the matter before counsel and received their consent.

"We were advised that the recording of the cases had the prior consent of the chief judge of the circuit. The jurors were not to be informed of the recording and there was to be no publicity. No release has been made by the (research) project of the transcripts and the transcripts have been modified so as to remove personal names, geographical references and identifying statements."

Quizzed on Names

Departing from the issue of the tape recordings, in jury rooms, subcommittee counsel J. G. Sourwine questioned Dr. Levi as to whether he knew a long list of individuals Mr. Sourwine had named. The witness recognized some of the names. Others he said he did not know.

In several instances Mr. Sourwine asked the witness if he knew the persons mentioned were Communists. Dr. Levi said he did not.

Dr. Levi told the subcommittee

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that in August of this year the Ford Foundation allotted an additional \$1 million for three surveys, of which the study of the jury system was one. The other two projects cover studies of commercial arbitration and Federal income taxation.

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Date OCT 12 1955

Jury 'Tapping' Defended Here By Professor

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Dr. Levi told the subcommittee

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 Mr. Kunkel ✓

Something Went Wrong

Jury Eavesdropper Is on Committee Griddle

What do jurors talk about when they are behind closed doors deliberating a case?

Dr. Edward H. Levi, dean of Chicago University's law school, and some colleagues, who tried to find out by wiring some Federal Court jury rooms in Wichita, Kans., found themselves telling about it today before the Senate Internal Security sub-committee.

FORD FOUNDATION

Dr. Levi said the study into the jury system was sponsored by the Ford Foundation. The idea, he said, was to learn whether jurors understand the complicated legal instructions given them by the judge.

The sub-committee said it was afraid the tape recordings made might "affect the integrity of the jury system."

"You violated the very reason that we have secret jury deliberations—so that jurors can frankly state their opinions," Chairman James O. Eastland (D., Miss.) told Dr. Levi.

JURORS DIDN'T KNOW

Dr. Levi, who had been subpoenaed to appear, said the recordings were taken with the consent of the judges in each case, the chief judge, and the lawyers involved. He said the jurors didn't know they were being recorded.

He said there was to be "no publicity" on the study of the project. The recordings were to be played only to the researchers and judges.

But Sen. Eastland said something went wrong with the plan and the recordings were played at a conference of judges, which turned out to be a public meeting, in Estes Park, Colo.

"Everybody in the country who

No investigation request received to date.

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reads the newspapers knows about it," he said.

"Yes sir, that did happen," Dr. Levi said. He said the recordings had been edited, tho, so no one would recognize the individual cases.

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Letter to Editor Brings Subpena

An attorney who wrote a letter to the editor of The Washington Post and Times Herald on the "jury tapping" dispute involving the University of Chicago yesterday was subpoenaed to testify before the Senate Internal Security Subcommittee.

Another attorney, who signed the letter also was sought as a subpoenaed witness, it was learned, but was out of town.

The Subcommittee today is scheduled to hold a hearing on the controversial research project in which microphones were used to record jury deliberations in five civil cases at Wichita, Kan., in May, 1954.

Subcommittee Chairman James O. Eastland (D-Miss.) and Attorney General Herbert Brownell Jr. have condemned the incident. The "bugging" was reportedly done with permission of the judges concerned, and the attorneys, with agreement that the jurors' identities would remain secret, as well as details of the cases.

A letter commenting on the dispute appeared in Tuesday's edition of this newspaper, signed Harold Green and Abe Krash. The letter expressed disagreement with an editorial in this newspaper which criticized the hidden recordings.

In addition, the letter writers also said, "We think it unfortunate that the Senate Internal Security Subcommittee should conduct hearings in this mat-

ter. The implication... is that there is a connection between subversion and the jury study."

Green and Krash expressed confidence that the recording was attempted as part of "a scholarly study... animated by the highest motives."

Krash said he was surprised in mid-afternoon yesterday to be handed a subpoena directing him to appear before the Subcommittee today. An attempt was made to subpoena Green, who was out of town.

Green is Harold P. Green, a former counsel for the Atomic Energy Commission, and counsel last spring for the Government Operations Subcommittee which investigated the Federal security program. Krash said the subpoena he received was served on him in the law offices of Arnold, Fortas and Porter where he is employed.

"All I know," Krash said last night, "is that I've been served with a subpoena after sending a letter." He said that both he and Green are graduates of the University of Chicago law school, but have no special knowledge of the recording incident.

The letter they wrote, said Krash, was based "entirely on what we read in the newspapers, and our judgment of that."

Eight witnesses connected with the project, or with the legal issues involved have been named as today's witnesses. A Subcommittee staff member last night declined comment on the Krash-Green incident, but indicated the Subcommittee sought to determine if they had special knowledge of the recording dispute.

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JOSEPH BURKE, WICHITA KANSAS - MAY 1954

ADD 6 JURY

ASSISTANT ATTORNEY GENERAL WARREN E. BURGER, IN A SPEECH AT ST. PAUL, MINN., TODAY SAID THE JURY STUDY PROJECT ORIGINALLY WAS OF "VERY SWEEPING PROPORTIONS" AND CALLED FOR "SURREPTITIOUS EAVESDROPPING" ON 500 TO 1,000 FEDERAL JURIES.

BURGER SAID THE RESEARCHERS HAD "DECLINED" TO TELL THE JUSTICE DEPARTMENT JUST WHERE THEY PLANNED TO MAKE THE JURY STUDIES OTHER THAN AT WICHITA. HE SPOKE BEFORE A REGIONAL MEETING OF THE AMERICAN BAR ASSOCIATION.

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 Mr. Boardman ☒
 Mr. Nichols ☒
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 Miss Gandy ☐

FEDERAL COURT, WICHITA, KANSAS. MAY 1954

ADD. 8 JURY

THE SUBCOMMITTEE BROUGHT OUT THAT KALVEN SIGNED APPEALS TO PRESIDENT TRUMAN IN 1953 REQUESTING CLEMENCY FOR CONVICTED ATOMIC SPIES JULIUS AND ETHEL ROSENBERG AND MADE SPEECHES ABOUT THE CASE ON THE UNIVERSITY OF CHICAGO CAMPUS.

KALVEN SAID HE WAS INTERESTED IN THE CASE AND WAS NOT CONVINCED THAT THE EVIDENCE WAS STRONG ENOUGH TO MERIT THE DEATH SENTENCE.

SUBCOMMITTEE COUNSEL J. C. SOURWINE SAID KALVEN ALSO WROTE AN ARTICLE FOR THE BULLETIN OF ATOMIC SCIENTISTS ATTACKING THE SECURITY DECISION AGAINST PHYSICISTS J. ROBERT OPPENHEIMER. KALVEN ACKNOWLEDGED THIS AND SAID HE STILL HAS THE SAME OPINION.

THE LAW PROFESSOR SAID HE HAS ADHERED "VERY STRICTLY" TO A PROMISE NOT TO IDENTIFY THE WICHITA CASES OR THE PERSONS APPEARING IN THEM. HE SAID HE BELIEVES STRONGLY IN THE AMERICAN JURY SYSTEM AND ITS TRADITION OF SECRECY.

KALVEN SAID THE RECORDINGS ARE KEPT UNDER LOCK AND KEY AT THE UNIVERSITY OF CHICAGO.

BEFORE RECESSING UNTIL 10 A.M. EST TOMORROW, THE SUBCOMMITTEE HEARD BRIEF TESTIMONY FROM LOGAN GREEN, GARDEN CITY, KANS., ATTORNEY WHO SAID HE AGREED WHEN A WICHITA JUDGE ADVISED HIM THAT THE UNIVERSITY OF CHICAGO WANTED TO RECORD DELIBERATIONS IN THE JURY ROOM.

ASKED IF HE DID SO BECAUSE THE JUDGE HAD ALREADY APPROVED THE PLAN, GREEN REPLIED:

"FRANKLY, I DIDN'T GIVE THE MATTER TOO MUCH THOUGHT. WE WERE PREPARING TO SELECT A JURY. I HAD A LAW SUIT TO TRY. I DIDN'T GIVE IT AS MUCH THOUGHT AS I WOULD NOW."

WHEN THE LAUGHTER SUBSIDED, SOURWINE ASKED IF HE WOULD CONSENT TO A SMILIAR "BUGGING" NOW.

"I DON'T THINK I WOULD," HE REPLIED.

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Mr. Tolson ☒
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Mr. Holloman ☐
Miss Gandy ☐

FEDERAL COURT, WICHITA KANSAS MAY 1954-

A LAW PROFESSOR TOLD INDIGNANT SENATORS HE HOPES TO EAVESDROP ON FIVE OR TEN MORE JURIES ABOUT A YEAR FROM NOW. BUT THE SENATORS PROMISED TO STOP HIM.

HOWEVER, THE WITNESS, PROF. HARRY KALVEN, JR., OF THE UNIVERSITY OF CHICAGO FLATLY DENIED A JUSTICE DEPARTMENT CHARGE THAT HE PLANNED RECORDINGS OF 1,000 JURIES.

"THAT IS CLEARLY FALSE AND THE JUSTICE DEPARTMENT HAS GOOD REASON TO KNOW WHAT THE FACTS ARE," KALVEN TOLD THE SENATE INTERNAL SECURITY SUBCOMMITTEE. THE CHARGE WAS MADE TODAY BY ASSISTANT ATTORNEY GENERAL WARREN E. BERGER, IN ST. PAUL, MINN.

KALVEN TESTIFIED THAT THE UNIVERSITY RESEARCH PROJECT, HAD FIRST CONSIDERED AN OUTSIDE SUGGESTION THAT IT RECORD DELIBERATIONS OF 1,000 JURIES THROUGH HIDDEN MICROPHONES AFTER THE JURORS HAD BEEN INFORMED THAT THEIR WORDS WERE BEING TAKEN DOWN. BUT WHEN THE PLAN SWITCHED TO MAKING SECRET RECORDINGS, WITH COURT APPROVAL, HE SAID THERE WAS NO IDEA OF MAKING MORE THAN "A HANDFUL" OF TAPES.

KALVEN SAID THE PROJECT DOES NOT INTEND TO RECORD MORE JURIES FOR ABOUT A YEAR. THEN, HE SAID, HE WOULD FAVOR DOING FIVE OR TEN MORE.

"I'LL GUARANTY YOU ARE NOT GOING TO DO ANY 'BUGGING' AFTER CONGRESS PASSES SOME LEGISLATION," INTERRUPTED CHAIRMAN JAMES O. EASTLAND (D-MISS.).

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(BURGER)

ST. PAUL, MINN.--THE PRACTICE OF PLANTING TAPE RECORDERS AND MICROPHONES IN JURY ROOMS WAS ATTACKED BY WARREN E. BURGER, ASSISTANT UNITED STATES ATTORNEY GENERAL.

BURGER TOLD A NORTHWEST REGIONAL MEETING OF THE AMERICAN BAR ASSOCIATION THAT SUCH ACTION REPRESENTS AN INVASION OF THE "TRADITIONAL PRIVACY OF THE JURY." HE ADDED THAT "ANYTHING WHICH STRIKES AT THE JURY SYSTEM STRIKES AT THE HEART OF OUR ADMINISTRATION OF JUSTICE."

ALTHOUGH BURGER MADE NO SPECIFIC REFERENCE TO THE CASES IN WHICH JUDGES WERE "TAPPED," HE APPARENTLY REFERRED TO MICROPHONE STUDIES THE UNIVERSITY OF CHICAGO STARTED TWO YEARS AGO, BACKED BY FORD FOUNDATION FUNDS.

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POSS BUREAU OBSTRUCTION OF JUSTICE

UNIVERSITY OF CHICAGO

FEDERAL COURT, WICHITA, KANSAS - 7/11/1954

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Possible OBSTRUCTION OF JUSTICE
UNIVERSITY OF CHICAGO
GEOGRAPHY CLINT, WICHITA, KANSAS-MAY, 1954

ADD & JURY

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WASHINGTON CITY NEWS SERVICE

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THESE DAYS:

Campaign Liberals Are Compromisers

By **GEORGE E. SOKOLSKY**

ONE of the serious problems that faces any man who wishes to run for President is that he must avoid giving the appearance of being "too conservative". Presumably, a candidate for the Presidency must shout that he is an undefinable liberal. Everyone calls himself a liberal in public appeals from the Communists to the most devoted adherents of Adam Smith.

Bertrand Russell once defined the current liberals as "... The man who values liberal ideals is concerned to say, though with some limitations, that individuals should be free in the expression of their opinions whether in speech or in writing, and that private enterprise should be permitted wherever there are not strong positive arguments against it. This is not at all a bad definition although it contains totalitarian phrases as though by accident. Who is to permit private enterprise to function even in this limited fashion? Undoubtedly, the unlimited State, possessing all powers like a medieval Baron. This excessive State is certainly not liberalism.

Only Orthodox Are Stubborn

Here one observes the basic conflict of the age and it hinges not upon politics but springs out of a badly-kept field in the realm of morals. In the current campaign to find a President of the United States, the moral man, that is the one who will dare say that no pragmatic compromises can be made with basic moral principles will find himself unpopular because in the Western world, this is an era of compromise arising from moral insecurity. Men who do not find God as the guiding Force in their politics as in their Sunday ritual will be pragmatists and must therefore compromise because they believe in nothing stubbornly. Only the orthodox are stubborn because they are convinced that they are right and their conviction comes not from experience but out of faith, which is something very different.

Two recent events show how far we have wandered from the rock of belief which is the foundation of positive Americanism:

1. When President Eisenhower became ill, there was talk of setting up some kind of a council, tantamount to a regency, to act in his name during his incapacity. The idea was dropped as absurd so quickly that it gained no currency. What it amounted to was that some of the keepers of the gate at the White House wanted to be sure that they were not driven out by whatever change might occur constitutionally. They wanted to establish a regency similar to that which Mrs. Woodrow Wilson practised by employing the fiction that a sick man was not sick.

It is to the credit of James Hagerty, Presidential press secretary, that when he took over in Denver, the bulletins became so detailed and honest that the nation practically sat at the President's bedside. The degree of his recovery is a matter of importance in these troubled times.

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The Worker _____
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Date OCT 12 1955

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Constitution Must Prevail

What is also important is the constitutional position of the Vice-President. There are those who dislike Richard Nixon, but the Constitution must prevail in this country or we shall become an anarchy. The Constitution makes provision for continuity in government should the incumbent President find it impossible to continue. Liking or disliking Nixon or the personal ambitions of certain men can play no role in this situation. Those who were thinking of bypassing the Constitution and who, for a few days, acted as though they would, have no place in the public life of this country. While liberalism, by which is meant pragmatism, may be a popular slogan, Constitutionalism is an American fact.

2. Those who engaged in the desecration of the jury room in Wichita, Kansas, moved far from the spirit of Anglo-American concepts of justice. In effect, they corrupted the courtroom, the same as a racketeer might have done who handed a judge cash for a decision. In the tradition of our people, the jury system is inviolate and the jury room is a sanctum. All the lawyers associated with putting a microphone in the jury room know this to be so and cannot excuse their conduct by pleading that the University of Chicago is an important institution or that the Ford Foundation is powerful. In the eyes of law, all are equal in our civilization or should be.

And so, if Daniel Webster were alive, he would have an issue to place before the people. In the present mood, Senator William Knowland represents the tradition of orthodox Constitutionalism.

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These Days By George Sokolsky

The Real Moral Issue

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Sokolsky

himself a liberal in public appeals, from the Communists to the most devoted adherents of Adam Smith.

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the Western world, this is an era of compromise arising from moral insecurity. Men who do not find God as the guiding force in their politics as in their Sunday ritual will be pragmatists and must therefore compromise because they believe in nothing stubbornly.

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And so, if Daniel Webster were alive, he would have an issue to place before the people. In the present mood, Sen. William Knowland represents the tradition of orthodox constitutionalism.

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POSSIBLE OBSTRUCTION OF JUSTICE
UNIVERSITY OF CHICAGO

517 ... WICHITA KANSAS
7-11-1955

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Mr. Tolson ☒
Mr. Boardman ☒
Mr. Nichols ☒
Mr. Belmont ☒
Mr. Harbo ☒
Mr. Mohr ☒
Mr. Parsons ☒
Mr. Rosen ☒
Mr. Tamm ☒
Mr. Sizoo ☒
Mr. Winterrowd ☒
Tele. Room ☒
Mr. Holloman ☒
Miss Gandy ☒

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28-10-55
 Mr. Harbo
 Mr. M. M.
 Mr. Parsons
 Mr. Rosen
 Mr. Tamm
 Mr. Sizoo
 Mr. Winterrowd
 Tele. Room
 Mr. Holloman
 Miss Gandy

BAUMER 4/18

Loophole Found

885

In this instance in Wichita, it may still be that all these who had anything to do with putting a microphone in the jury room entered into a conspiracy to commit a crime. There is a loophole, of course. Lawyers always find loopholes, particularly when they themselves are involved. It is a crime to tamper with a jury but it is not a crime to eavesdrop on a jury. But what about placing a microphone in the jury room?

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Denies Responsibility

The Ford Foundation, like most other Foundations, denies responsibility on the ground that once a grant has been made, the Foundation does not interfere with it. The assumption is that the University or Association or individual to whom the grant has been made is responsible for its proper expenditure. That is too easy a formula and it is morally untenable; Congress might make it legally untenable. Whoever pays the piper can call the tune.

When, for instance, there is so clear a pattern as the Fund for the Republic displays, it is impossible to believe that the Ford Foundation, which provided the enormous sum of \$15,000,000 for the Fund, has absolutely nothing to say about it. It may be the truth but it is not reasonable and each one of us is free to accept or reject such an unreasonable explanation. Fifteen million dollars is a lot of money to give even to Paul Hoffman and Robert Hutchins without any strings whatsoever. It is hard to believe unless it is a subsidy for something and even as a subsidy the amount seems high.

If it is true that all these grants are given unconditionally, then the Chicago University Law School could spend its grant as it chose, this time by putting a microphone in a grand jury room. May I suggest that another behaviorism these lawyers might study is what goes on in the mind of a lawyer when he gets his father-in-law or somebody to make a contribution to a political committee to get his lawyer son-in-law, who cannot earn a decent living as a lawyer, a judgeship. That does happen occasionally, now doesn't it?

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 NOT RECORDED
 126 OCT 27 1955

New York Journal-American
 ★★ Tues., Oct. 11, 1955-7

THESE DAYS:

The Hidden 'Mike' In the Jury Room

By GEORGE E. SOKOLSKY

IT is difficult to understand what was in the mind of a Wichita, Kansas, Federal judge when he permitted a University of Chicago Law School team to put a microphone into a jury room to discover the behavior of the jurors. Their conversations concerning five civil suits were recorded and the tapes played.

Anyone who has ever been a juror can tell about the behavior of jurors or any other people crowded into a room. "When do we eat?" "Will the Yankees win?" are normal questions.

What can the Chicago professors with a fat grant from the Ford Foundation learn about the behavior of ordinary Americans from their casual conversation even in the jury room? And what is the object of all these behaviorist studies, starting with the Kinsey Reports on the most private of occupations to this peep-holing of a jury room? What are the objectives of the Rockefeller and Ford Foundations in underwriting these behaviorist studies? Is it to prove that we are not all proper and that still of us are all too human?

THESE DAYS:**The Hidden 'Mike'
In the Jury Room**By **GEORGE E. SOKOLSKY** *p. 34*

*Chicago 7-1-55
Wichita 7-2-55*

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Miss Gandy _____

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p. 34
Date OCT 11 1955

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 Mr. Rosen ☒
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 Mr. Sizoo ☒
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 Tele. Room ☒
 Mr. Holloman ☒
 Miss Gandy ☒

Senators Will Opp Jury 'Bug' Inquiry

By the Associated Press

The Senate Security Subcommittee will ask the present United States attorney at Topeka, Kans., whether authorized secret recording of the deliberations of Federal jurors in Wichita, Kans.

The subcommittee, in a prepared statement, said the question will be asked William Farmer, the present United States attorney at Topeka. George Templar, the former United States attorney there and Robert Cowger, who at Mr. Templar's assistant. A hearing will open tomorrow.

The recording devices were placed in the jury room last year as part of a University of Chicago study of the operation of the jury system.

Mr. Templar said last Friday he had "no personal recollection of anyone" asking his consent for the action, but he added he didn't believe his consent necessary, that it was up to court.

The subcommittee already announced it will question officials and members of university staff.

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Date OCT 11 1955

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These Days By George Sokolsky

The Jury System

IT IS DIFFICULT to understand what was in the mind of a Wichita, Kan., Federal judge when he permitted a University of Chicago law school team to put a microphone into a jury room to discover the behavior of the jurors. Their conversations concerning five civil suits were recorded and the tapes played.



Sokolsky

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WHEN, FOR instance, there is so clear a pattern as the Fund for the Republic displays, it is impossible to believe that the Ford Foundation, which provided the enormous sum of \$15 million for the Fund, has absolutely nothing to say about it. It may be the truth, but it is not reasonable, and each one of us is free to accept or reject such an unreasonable explanation.

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Mr. Tolson ✓
Mr. Boardman ✓
Mr. Nichols ✓
Mr. Belmont ✓
Mr. Harbo ✓
Mr. Mohr ✓
Mr. Parsons ✓
Mr. Rosen ✓
Mr. Tamm ✓
Mr. Sizoo ✓
Mr. Winterrowd ✓
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Mr. Holloman ✓
Miss Gandy ✓

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W.C. Sullivan
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Federal Court Writ in TN, Kansas may 17-54

"Jury Tapping"

An editorial in The Washington Post and Times Herald of Oct. 7 condemns a study of the jury system undertaken by the University of Chicago which involved the use of recordings by concealed microphones of the jury's deliberations. We believe that the editorial conveys an incomplete and misleading impression of a scholarly study which has been animated by the highest motives.

It is our understanding that pursuant to a grant from the Ford Foundation, the University of Chicago has undertaken to make a study of the nature and operation of the jury system. The object of the study is to gather information in a scientific manner concerning such questions as the extent to which a jury follows the instructions of the judge, the manner in which the jury calculates damages, and the like.

There is, of course, rumor and speculation concerning these matters, but many thoughtful persons recognize that there is widespread ignorance and the need for documented studies in this area. Knowledge so gained is inherently desirable and it may be useful in improving the administration of justice.

In connection with this inquiry it was deemed desirable to make a recording of the deliberations of the jury in a few selected civil cases. These records were made with the consent and cooperation of Judge Orrie L. Phillips, chief judge of the United States Court of Appeals for the Tenth Circuit; the presiding district judge; and the attorneys for the parties involved, all of whom presumably have a substantial interest in maintaining legal proprieties.

No one doubts that the jury must be free to discuss a case with full confidence that what is said will not go beyond the jury room. But we submit that

there is not the slightest jeopardy to the jury system as an institution by an inquiry so limited in scope and controlled as that undertaken by the University of Chicago. Indeed, the vitality of the jury as an institution in a democratic society depends upon informed understanding and criticism.

We think it faulty analysis to liken this study to wiretapping. The object of the Chicago inquiry was to acquire knowledge in the hope of improving the administration of justice. The object of wiretapping is to secure evidence or leads to be used in criminal or other proceedings against individuals. Certainly this distinction in purpose is critical if moral judgment is to be passed, as your editorial does, upon the conduct of the persons involved.

We think it unfortunate that the Senate Internal Security Subcommittee should conduct hearings in this matter. The implication of this action is that there is a connection between subversion and the jury study. It is preposterous to assume that Judge Phillips, who authorized the recordings, and who is a distinguished Republican jurist, would in any way sanction activities that are subversive or a threat to constitutional procedure.

It may well be that even this limited and controlled "eavesdropping" on jury deliberations has some remotely adverse effect which outweighs the value of the greater knowledge concerning the jury system to be derived from the use of these methods. But we believe that your editorial greatly oversimplifies this problem and that it fails to give due recognition to the praiseworthy motives which actuated the study.

HAROLD GREEN
ABE KRASH

Washington

Mr. Tolson _____
Mr. Boardman _____
Mr. Nichols _____
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JURY EAVESDROPPING

Attorney General Brownell has properly expressed the concern of the Dept. of Justice over the revelation that a concealed microphone was placed in a Wichita juryroom last year for use in recording jury deliberations.

Like the right of trial by jury the security of the juryroom against observation or intervention from outside is a fundamental of American law. It is shocking to find that this privacy has been invaded—even with a view to "research"—by representatives of the University of Chicago Law School. It is shocking to find that the eavesdropping on jury deliberations was apparently permitted by Federal judges. And it is shocking to note that this intrusion of private and secret purposes in a matter of public law was sponsored by representatives of that very group of lawyers and professors who are most indignant at other invasions, or fancied invasions, of private rights or personal liberties.

Now that the matter has been brought to light it deserves a thorough airing in all its ramifications. The fact that attorneys in the cases involved knew of the microphone arrangement is almost irrelevant to the issue. It is the jury's

rights that were invaded, not the rights of the parties to the cases being considered. Should such a practice become common, for whatever reason, every jury might be sharply inhibited in its deliberations by a concern for the later exposure of collective actions or of individual opinions in the cases to be tried.

Lawyers and legal theorists have for many years expressed varying degrees of qualification, and conjecture, about just what made a jury tick. Such speculation is fair. Post-trial analysis is fair—if the jurors can be persuaded to discuss their deliberations objectively. But the microphone in the juryroom and the concealed tape-recorder nearby are a definite threat to the whole concept of jury trial.

The Wichita incident needs study, analysis, and a genuine rejection in official opinion—and in law, if necessary—so that the country's courts may be effectively safeguarded against any repetition of such abuse.

Mr. Tolson	✓
Mr. E. A. Tamm	✓
Mr. Clegg	✓
Mr. Glavin	✓
Mr. Ladd	✓
Mr. Nichols	✓
Mr. Rosen	✓
Mr. Tracy	✓
Mr. Egan	✓
Mr. Gurnea	✓
Mr. Harbo	✓
Mr. Winterrowd	✓
Tele. Room	✓
Mr. Holloman	✓
Miss Gandy	✓

N. C. SULLIVAN

POSSIBLE OBSTRUCTION OF JUSTICE

UNIVERSITY OF CHICAGO

SECORAN COURT, WICHITA, KANSAS, MAY 1954

172-921-A
NOT RECORDED
133,00, 24 1955

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Editorial
Editor: John Day Jackson

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- Daily Worker, p.
- Yale Daily News, p.
- Bridgeport Herald, p.

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Submitted by the New Haven Office

SEARCHED	INDEXED
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FBI - NEW HAVEN	

Tampering With a Jury

Often reformers, in their anxiety to change the world, destroy institutions that have stood a thousand years as protectors of human rights.

Such an institution is the Anglo-American jury system which provides a fair trial, the decision of guilt or innocence to be made by a defendant's peers, that is, his equals and neighbors.

The Ford Foundation gave the University of Chicago Law School a grant to make a study of the jury system.

It appears that professor Harry Kalven arranged with a federal judge in the Tenth Federal Circuit Court at Wichita, Kansas, to place a microphone in the jury room in five civil cases with the object of studying the behavior of the jurors.

According to Professor Kalven, he had the consent not only of the judge but of the lawyers and the United States district attorney.

It would seem only right to bring disbarment proceedings against all of them, for although they are able to hide behind a technicality in the law, which is that while tampering with the jury is a crime, eavesdropping is not, they definitely violated the spirit of the jury system and did it premeditatively and conspiratorially.

The jurors were not notified that they were being spied upon.

The rules of law with regard to the jury are:

"...confident that the deliberations in the jury room shall not later be disclosed on the witness stand by a fellow juror is essential to the satisfactory maintenance of the relation. The relationship merits legal protection and more harm would probably come from disclosure than from nondisclosure.

"Hence a petit juror is entitled to object to having any communication from himself to a fellow juror disclosed upon the witness stand by the latter..."

The courts would have to decide whether placing a microphone in the jury room and recording the conversations on tape and playing them before various and sundry, including a convention of circuit judges, violates the spirit if not the letter of the law.

If a member of the jury may not disclose what occurred in the jury room, may an outsider have that privilege?

Attorney General Herbert Brownell has already expressed his outrage at such improper conduct.

The United States district attorney at Wichita should be dismissed for his misconduct.

This is a shabby business and the Ford Foundation's disclaimer of responsibility will fall on deaf ears so far as public opinion is concerned.

When so much money is being disbursed, the Foundation ought to make sure that it is not financing crack-pot schemes.

Mr. Tolson	
Mr. Boardman	
Mr. Nichols	
Mr. Belmont	
Mr. Ladd	
Mr. Clegg	
Mr. Glavin	
Mr. Harbo	
Mr. Mohr	
Mr. Parsons	
Mr. Rosen	
Mr. Tracy	
Mr. Egan	
Mr. Gurnea	
Mr. Harbo	
Mr. Hendon	
Mr. Jones	
Mr. Quinn	
Mr. Nease	
Mr. Sizoo	
Mr. Winterrowd	
Tele. Room	
Mr. Holloman	
Miss Gandy	

BAUMGARDNER

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LOS ANGELES HERALD
& EXPRESS DATED
10/10/55
LATE EDITION BY
HERBERT KRAUCH,
Managing Editor

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Eavesdrop Outrage

WHEN the University of Chicago law school planted a microphone in a jury room at Wichita, Kan., and eavesdropped on deliberations of five cases it was guilty of an abominable violation of a fundamental principle of the American judicial system and stupid or wilful disregard of the seventh amendment.

This egghead experiment was carried out under the guise of lofty research. It becomes more shocking with the statement by Prof. Harry Kalven, director of the university's jury project, that the chief judge, trial judges and attorneys for all parties, including the U. S. district attorney in the tenth federal circuit court at Wichita approved it.

It would seem only right to bring disbarment proceedings against all of them although they may be able to hide behind a technicality in the law, which is that while tampering with the jury is a crime, eavesdropping is not, they definitely violated the spirit of the jury system and did it premeditatively by conspiracy. The jurors were not notified that they were being spied upon.

To cap the intrusion into a jury's right to secret deliberations, the eavesdropped recordings, still according to Prof. Kalven, were played by the federal judges of the tenth circuit at their summer meeting.

Atty. Gen. Brownell has announced his and his department's unequivocal opposition "to any recording or eavesdropping on the deliberations of a jury under any conditions regardless of the purpose" and said he will ask for a law to prevent any further outrages.

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Mr. Ladd	<input checked="" type="checkbox"/>
Mr. Mohr	<input checked="" type="checkbox"/>
Mr. Winterrowd	<input checked="" type="checkbox"/>
Mr. Holloman	<input checked="" type="checkbox"/>
Miss Gandy	<input checked="" type="checkbox"/>

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- () Detroit Free Press
- () Detroit News
- (X) Detroit Times
- () Michigan Daily
- () Wayne Collegian

Date: 10/9/55 Page 14

Edition: Final Column 1 & 2

John C. Manning, Editor

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126 OCT 24 1955

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It seems incredible there would have to be a law, but this case has underscored the necessity, so let's have it.

Mr. Brownell says jury eavesdropping is inconsistent with the seventh amendment. He is unanswerably right. This amendment calls for preservation of the right to trial by jury. Eavesdropping is a violation of a basic aspect of that right.

Senator James O. Eastland, chairman of the Senate internal security subcommittee, announces hearings will be held this week. We hope the committee goes into it thoroughly and hard.

Finally, the jury project was carried out under a grant from the Ford Foundation. The foundation says such research is conducted "under direction of the institution receiving the grant" and the foundation "takes no part in it."

All right. But it seems to us the foundation ought to keep a lot closer check on what is being done with its money, what is being researched and why. The founder of the great Ford empire would have been shocked to his bones by this one.

And we are sure his grandson, Henry Ford II, president of the Ford Company, who has demonstrated time and time again his belief in civil justice and liberties, would vehemently disassociate himself from "research" like this.

() Detroit Free Press
() Detroit News
(X) Detroit Times
() Michigan Daily
() Wayne Collegian

Date: 10/9/55 Page 14

Edition: Final Column 1 & 2

Mr. Tolson *u*
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Mr. Nichols *u*
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Classification:

Newspaper: BOSTON DAILY RECORD

Date: 10/8/55

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Call 3 U. Of C. Professors In Jury Recording Probe

Three University of Chicago faculty members will be asked to testify before a Senate subcommittee on a research project that recorded federal jury deliberations.

Sen. James O. Eastland (D-Miss.) chairman of the Senate Internal Security Subcommittee, said in Washington Friday he had issued the subpoenas for questioning at a public hearing next Wednesday.

The U. of C. men are Dean Edward H. Levi, Prof. Harry Kalven Jr. and Associate Prof. Fred I. Strudbeck, all of the law school faculty.

Subpena 2 Lawyers

Two other subpoenas have been issued for researchers who assisted in the 1954 recording project in the Wichita (Kan.) U.S. District Court. They are Abner Mikva, formerly a U. of C. research assistant and now a practicing lawyer in Chi-

cago, and Paul Kitch, a Wichita lawyer.

An extensive study of the American jury system by the university's law school has been under way since 1952 under a grant from the Ford Foundation. Kalven is currently director of the project.

No Identities Disclosed

As a part of the research, recordings with hidden microphones were made of the deliberations of five civil case juries in the Wichita court, after the research team had been given permission by the chief judge of the circuit, the trial judge and attorneys for both sides of the cases.

Precautions were taken not to

disclose the identities of the cases or of any of the participants in the deliberations.

The recordings came to light this week, and have drawn the criticism of Atty. Gen. Herbert Brownell Jr. and Sen. Eastland, who denounced them as "an attack on the sanctity of the jury system."

Purpose of the analysis of the jury system, according to Kalven, is for possible improvement in the court system.

A university spokesman said Friday the subpoenas for the three faculty men had not been received yet, but he presumed they would be along in due time. He said the three would testify.

Mr. Tolson	
Mr. Boardman	
Mr. Nichols	
Mr. Belmont	
Mr. Harbo	
Mr. Mohr	
Mr. Parsons	
Mr. Rosen	
Mr. Tamm	
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Mr. Tolson	✓
Mr. Boardman	✓
Mr. Nichols	✓
Mr. Belmont	✓
Mr. E.A. Tamm	✓
Mr. Mohr	✓
Mr. Parsons	✓
Mr. Rosen	✓
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Mr. Winterrowd	✓
Tele. Room	✓
Mr. Holloman	✓
Miss Gandy	✓

JOSEPH COURT, WICHITA KANSAS MAY 1954

Wire Tapping

While we are still thinking about the way research workers for a University of Chicago Law School project invaded the privacy of the jury room in a Federal court, we might also take note of the way in which the privacy of telephone conversations is being invaded. The connection between the two subjects has been cited by the *Wall Street Journal* in an editorial which recalls that while Attorney General Brownell is highly indignant about the eavesdropping on a jury, he himself urged Congress to pass a bill allowing him to decide when and where his agents could eavesdrop on telephone conversations.

The House Judiciary Committee wisely refused to approve such a measure. It drafted instead a bill putting the power to determine just whose phones could be tapped in the hands of Federal judges, where it ought to be. Under this proposed measure even judges could not give the power to tap telephones except in cases involving espionage, sabotage, treason or kidnapping. The restraints which the committee wishes to put on this enterprise are wise. Yet here in Maryland wire tapping is still without statutory regulation.

THE EVENING SUN
BALTIMORE, MARYLAND
OCTOBER 7, 1955
7 STAR EDITION
NEWTON AIKEN - EDITOR

The more credit, therefore, to the Baltimore Police Department which has just approved a Legislative Council plan to put some restraints on the business of wire tapping in this State. In particular it wants wire tapping banned except when it has been expressly authorized by a judge of the Supreme Bench of Baltimore city or of the county circuit courts. And in the terms of the proposed bill which the department is supporting, no judge could issue such a permit unless "there is reasonable ground to believe that evidence of a crime may be thus obtained."

The restraints on the police and on the judge are wise ones. Wire tapping is at best an evil. Even wire tapping with court authorization is more dubious than a judicially authorized search. As Judge Samuel H. Hofstadter of the Supreme Court of New York county has pointed out, "a search warrant is confined to a definite place and to . . . items of a stated class or description. Those in possession of the searched premises know the search is going on. . . . In the case of a telephone interception . . . the person whose line is to be tapped is, of course, in ignorance of the fact. . . . Everything said over the line is heard, however foreign to the stated objective of the law-enforcement officers. . . . In effect, the line of everyone who is called from or makes a call to the tapped line at any time is being tapped. . . ."

All too often this special nature of wire tapping is overlooked, especially by law-enforcement officers who chafe at what they consider unnecessary restraints. It is good to find a Police Department just as much concerned with protecting ordinary constitutional freedoms as with protecting the public from law-breakers.

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Sanctity of the Jury Room

When you or your neighbor step into a jury room to deliberate a case you have a right to assume that whatever you say in that room will not be repeated outside. This allows a freedom to say what you please and argue as you please in reaching a decision.

Up until recently you could be sure that this sanctity of the jury room would be maintained. More than one person has been sent to prison or fined for tampering with juries. Several newsmen have been held in contempt or threatened with contempt of court for seeking to probe a jury's doings.

This week it was revealed that a hidden microphone was placed in a Federal Court jury room here to record the deliberations of juries in five civil trials. Then later, after the names were garbled and identification was "erased," the recordings were played to federal judges and lawyers.

All this was done in the name of seeking improvements in the trial system and under the sponsorship of the Ford Foundation and Chicago Law School. Federal judges and attorneys for all parties agreed to it.

But the key persons involved did not agree—did not even know about the recordings. These were the jurors in the five cases. They have a right to be upset that this was done without their knowing it.

The important point is this: the "jury tampering" might set a precedent for other experiments, by persons who might not be as careful to "erase" identification.

Wire-tapping is an illegal procedure unless all persons involved agree. There is too much of it going on these days. For it to occur in a Federal Court jury room—a place where rights of the individual are supposed to be absolute—is a development revolutionary in our judicial system.

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Tampering with the Jury

Often reformers, in their anxiety to change the world, destroy institutions that have stood a thousand years as protectors of human rights. Such an institution is the Anglo-American jury system which provides a fair trial, the decision of guilt or innocence to be made by a defendant's peers, that is, his equals and neighbors.

The Ford Foundation gave the University of Chicago Law School a grant to make a study of the jury system. It appears that Professor Harry Kalven arranged with a Federal judge in the Tenth Federal Circuit Court at Wichita, Kansas, to place a microphone in the jury room in five civil cases with the object of studying the behavior of the jurors.



Atty. Gen. Brownell

According to Professor Kalven, he had the consent not only of the judge but of the lawyers and the United States District Attorney. It would seem only right to bring disbarment proceedings against all of them, for although they are able to hide behind a technicality in the law, which is that while tampering with the jury is a crime, eavesdropping is not, they definitely violated the spirit of the jury system and did it premeditatedly and conspiratorially. The jurors were not notified that they were being spied upon.

The rules of law with regard to the jury are:

"...Confidence that the deliberations in the jury room shall not later be disclosed on the witness stand by a fellow juror is essential to the satisfactory maintenance of the relation, the relationship merits legal protection and more harm would probably come from disclosure than from nondisclosure. Hence a petit juror is entitled to object to having any communication from himself to a fellow juror disclosed upon the witness stand by the latter."

The courts would have to decide whether placing a microphone in the jury room and recording the conversations on tape and playing them before various and sundry, including a convention of circuit judges, violates the spirit if not the letter of the law. If a member of the jury may not disclose what occurred in the jury room, may an outsider have that privilege?

Mr. Tolson ☒
Mr. Boardman ☒
Mr. Nichols ☒
Mr. Belmont ☒
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—Attorney General Herbert Brownell has already expressed his outrage at such improper conduct. The United States District Attorney at Wichita should be dismissed for misconduct. This, Brownell can do on his own. He has stated:

"We in the Department of Justice are unequivocally opposed to any recording or eavesdropping on the deliberations of a jury under any conditions regardless of the purpose."

The evidence of outrage is action and the best action would be dismissal of the U. S. District Attorney and impeachment of the judge. It is understood that Senator Eastland, chairman of the Senate Internal Security Subcommittee, will hold public hearings in this matter with the object of having the law amended to forbid eavesdropping and particularly the placing of a microphone in the jury room. It would be interesting to see what would happen if the loser in one of these cases, not informed of what was being done, moved for a mistrial and fought the case up to the Supreme Court.

This is a shabby business and the Ford Foundation's disclaimer of responsibility will fall on deaf ears so far as public opinion is concerned. When so much money is being disbursed, the Foundation ought to make sure that it is not financing crack-pot schemes.

Listening In On Jurors Is Assailed Brownell to Ask Congress for Law

WASHINGTON, Oct. 5 (AP). —Attorney General Herbert Brownell Jr. tonight reprimanded the University of Chicago law school for placing a concealed microphone in a jury room at Wichita, Kan., as part of a jury study.

"We in the Department of Justice," he said, "are unequivocally opposed to any recording or eavesdropping on the deliberations of a jury under any conditions regardless of the purpose."

Mr. Brownell said he would ask Congress for a law to prevent any such intrusions upon jury privacy "by any persons whomsoever and by any means whatsoever."

Hearings Planned

Meantime, Sen. James O. Eastland, D., Miss., said the Senate Internal Security subcommittee will hold hearings on the case next week. The Justice Department has announced earlier it would investigate the case.

Sen. Eastland said his group will "recommend whatever legislation shall be necessary to insure that any one who so violates the sanctity of the jury room in the future will find himself in violation of the law."

In Chicago, Professor Harry Kalven, director of Chicago University's jury project, said the recordings were made of jury deliberations in five civil cases tried in the Tenth Federal Circuit Court at Wichita in May, 1954.

Plan Approved

He said the recordings were made with prior consent and approval of the Chief Judge, the trial judge and attorneys for all parties, including the United States District Attorney.

He said "permission was granted on condition that the cases and the names of participants would not be disclosed." He said the aim of the project was to improve "the administration of the court system."

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J. Edgar Hoover*

Today in Washington**Microphone in Jury Room
Held Breach of Constitution**

By DAVID LAWRENCE

WASHINGTON, Oct. 7.—Strange goings on—the news comes out that a group of University of Chicago professors recently planted hidden microphones in a jury room without the knowledge or consent of the jurors. All this supposedly comes under the head of "research." It is being defended now on the ground that the attorneys in the case and the judge consented—but nobody seems to have been worried about the discourtesy to, if not the violation of the rights of, the jurors themselves, who didn't know that what they were saying to each other privately was being recorded and transcribed for the eyes and ears of persons who had no moral right to eavesdrop in the first place.

It would have brought the loudest of protests from coast to coast if Sen. McCarthy's committee or any of the other Congressional investigating groups had tried the same sort of "research" in order to get information about the conversations of organizations or discussion groups of various kinds. It would have been, of course, interesting "research" for a Congressional committee to sit in on meetings held by ideological group. But the cry would have gone up that this was a gross breach of the Bill of Rights and all the other rights of the individual guaranteed by the Constitution.



Lawrence

Mr. Tolson ☒
 Mr. Boardman ☒
 Mr. Nichols ☒
 Mr. Belmont ☒
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Study of Jury System

Yet today it has been revealed that the Ford Foundation made the grant of funds to the University of Chicago law school and that the project involved a study of the jury system. It is probable that the Ford Foundation didn't know that its money was going to be used to plant microphones in jury rooms, nor did it presumably know why it was necessary for the managers of the research project to get information in this peculiar way.

But it is a safe bet that the committee headed by Sen. Hennings of Missouri, Democrat, which is studying abuses of constitutional rights, will not investigate this, though already the Senate Subcommittee on Internal Security has announced it will take testimony. The episode actually belongs in the field of the Hennings committee.

The Attorney General, Herbert Brownell, expressed himself in indignant terms concerning the project. He issued a statement in which he said that the wiring of the jury room was done "without the knowledge or consent of the jurors and without the knowledge or consent of the Attorney General in at least five civil cases." He then said in part:

"We in the Department of Justice are unequivocally opposed to any recording or eavesdropping on the deliberations of a jury under any conditions regardless of the purpose. Such practices, however well intentioned, obviously and inevitably stifle the discussion and free exchange of ideas between jurors. They tend to destroy the very basis for common judgment among the jurors, upon which the institution of trial by jury is based, and are inconsistent with the purposes of the Seventh Amendment to the Constitution of the United States,

which requires that trial by jury shall be preserved."

The Attorney General might also have mentioned the provision of the Constitution which guarantees the citizen against intrusions on his privacy. It is in Article Four of the Bill of Rights, which says:

"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

The word, "unreasonable" means that the limits of intrusion must be defined by law. There are currently pending in Congress some bills to permit wiretapping when a Federal judge, upon a showing of the circumstances of a suspected crime, approves the use of listening devices. But in this instance there was no crime suspected. It was, therefore, a sheer invasion of the right of privacy on the mistaken assumption that some beneficent purpose of research might be served. This could just as well have been fulfilled by interviewing the jurors afterwards as to their suggestions for improvement of the system or by seeing to it that some of the professors or students serve on juries. They could reveal their recommendations or proposed reforms in the classroom afterwards without violating the confidence of the jury room.

The Attorney General has announced that he will ask Congress to pass laws "to prevent such intrusions upon the privacy of the deliberations of both grand and petit juries of the courts of the United States by any persons whomsoever and by any means whatsoever."

This would include the new-fangled "research" techniques, too.

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Senators Investigate 'Mike' in Jury Room

By the Associated Press

Five University of Chicago educators who planted recording devices in a Wichita, Kans., Federal Court jury room, had a summons today from investigating Senators.

Chairman Eastland, Democrat of Mississippi, denouncing their action as an "attack on the sanctity of the jury system," had the men subpoenaed for questioning at a public hearing Wednesday before the Senate Internal Security Subcommittee which he heads.

The five are Edward H. Levi, dean of the university's law school; Prof. Harry Kalven, Jr., professor of law, and the three-man team which placed hidden microphones, or "bugs," in the jury room at their instructions and without the jurors' knowledge.

Part of Research Project

Mr. Kalven has acknowledged that he had the jury room "bugged," to record the jurors' discussions in their deliberations on five civil cases. But he insisted that he did so with the prior consent of court officials, and of the litigants involved. He said it was part of a research project embracing a detailed

study of the jury system in this country.

Senator Eastland did not say whether he would seek testimony from any of the court officials involved.

In addition to the two university officials, he named the others subpoenaed as Abner J. Mikva, Paul Kitch and Fred Strodebeck of the university teaching staff.

Brownell to Ask Law

Disclosure of the incident has drawn criticism from Attorney General Brownell, who announced the Justice Department will ask Congress to pass a law to forbid "such intrusions upon the privacy" of jurors.

Senator Eastland said his inquiry is designed to show whether any laws were violated, as well as whether new ones are needed.

Senator O'Mahoney, Democrat of Wyoming, told a reporter he also believes "the Wichita incident" has pointed up a need for tighter laws.

He said "development of microphones and wiretap gimmicks which invade the privacy of the citizen" is a further reason why it would be wise to spell out legislation forbidding eavesdropping on what goes on in the jury room.

Mr. Tolson ☒
Mr. Boardman ☒
Mr. Nichols ☒
Mr. Belmont ☒
Mr. Harbo ☒
Mr. Mohr ☒
Mr. Parsons ☒
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Jury Tapping

The disclosure that concealed microphones were placed in the jury room of a Federal court in Wichita, Kan., as part of a research project is altogether shocking. It is no less shocking that a United States judge, a United States attorney, and members of the University of Chicago Law School faculty should have approved of the project and participated in it without any apparent awareness of its impropriety. There is something a little bit anomalous in having the enormity of this situation called to public notice by Attorney General Brownell and Senator Eastland, who have not been especially sensitive about the perils of wiretapping. Nevertheless, their protest was entirely proper and timely.

A jury imperatively needs to carry on its deliberations in private. When it retires to consider the evidence and arguments in a case which has been argued before it, its members must be free from any outside pressure or fear of reprisal. They must be free also to discuss the case with full confidence that what they say will not go beyond the walls of the jury room. Any impairment of this privacy not only destroys the detachment with which they ought to deliberate but effectually deprives the litigants of their right to a fair trial. Uninhibited discussion becomes very difficult if there is fear of a concealed microphone. A very bad mistake was made at Wichita, and it was compounded by the public discussion of the project. Mr. Brownell and Senator Eastland are quite right to initiate measures which will prevent any recurrence of this kind of intrusion on the administration of justice.

Mr. Tolson ☒
 Mr. Boardman ☒
 Mr. Nichols ☒
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Date OCT 7 1955

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POSSIBLE OBSERVATION OF JURY ROOM
 UNIVERSITY OF CHICAGO
 FEDERAL COURT, WICHITA, KANSAS - MAY 1954

OCT 7 1955

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EAVESDROPPING ON JURY

WE should think a university law professor, of all people, would have a more than average appreciation of our constitutional sanctities.

And when that sanctity involves the right of trial by jury, we should think a judge, of all people, would understand its meaning and evidence an unflinchable respect for it.

Yet, it now is revealed that a University of Chicago professor, making a "study" of the jury system, planted microphones in a Wichita jury room in five cases to pick up the deliberations.

The chief judge of the 10th Circuit District and the trial judge in these cases approved of this eavesdropping.

Attorney General Brownell has denounced the incident. Sen. Eastland, chairman of the Senate Internal Security subcommittee, will hold hearings next week.

Mr. Brownell's language necessarily was moderate. The Eastland investigation should be unreserved.

In this country, we usually put people in jail for tampering with juries. Trying to find out what the jurors say as they deliberate a case is tampering, in our book.

The integrity of the jury system is armored by the privacy of a jury's deliberations. Any intrusion of that privacy, as the Attorney General said, is a patent violation of the system's integrity.

Our Constitution guarantees every citizen the right of trial by jury. He who flouts that right, transgresses one of our precious heritages.

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No request received from Department for investigation

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All right. But it seems to us the Foundation ought to keep a lot closer check on what is being done with its money, what is being researched and why. The founder of the great Ford empire would have been shocked to his bones by this one. And we are sure his grandson, Henry Ford 2d, president of the Ford Company, who has demonstrated time and time again his belief in civil justice and liberties, would vehemently dissociate himself from "research" like this.

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UNIVERSITY OF CHICAGO
SUPREME COURT, WICHITA, KANSAS. MAR 1954

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**FIVE SUBPENAED
FOR U. S. QUIZ OF
JURY RECORDING**

Chicago Daily Tribune
 Friday, October 7, 1955
 F* Part 1—Page 51

Dean Edward H. Levi of the University of Chicago law school is one of five Chicago area persons subpoenaed by the senate internal security subcommittee in its investigation of the recording of jury proceedings in Wichita, Kas. it was announced last night in Washington.

as Prof. Harry Kalven Jr. of the law school, and Abner Joseph Mivka, Paul Kitch, and Fred Strodebeck. All five are to testify next Wednesday in what Eastland has denounced as "a violation of the jury room sanctity."

The others subpoenaed were identified by Sen. Eastland (D, Miss.), subcommittee chairman,

The recording project, part of a study to help bring improvements in the court system, was made with consent of judges and lawyers in the 10th federal circuit at Wichita.

CHICAGO TRIBUNE

3X **SPORTS FINAL** Edition

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WALL STREET JOURNAL
October 7, 1955

Mr. Tolson ☒
Mr. Boardman ☒
Mr. Nichols ☒
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Miss Gandy ☒

Eavesdropping

Attorney General Brownell is aroused by the news that a microphone was planted in a jury room in Federal court in Wichita, Kansas, as part of a research project in jury behaviorism.

The study was conducted by the University of Chicago law school and the objective was to improve "the administration of the court system." According to the professor in charge, the recordings of five civil cases were made, in each instance with the prior consent of the chief judge of the Tenth Federal Circuit Court, the trial judge and attorneys for all parties including the United States District Attorney. Everyone was in on the plan except the members of the juries.

That sworn officers of the court should have agreed to such an invasion of jury deliberations—for whatever purpose—is outrageous. Even a Federal judge has neither the right nor the power to permit violation of the sanctity of the jury system. It is not hard to imagine what the judges would have done if one of the litigants had sneaked a microphone into a jury room for his own purposes.

Mr. Brownell takes, quite properly, a great deal of umbrage about this. "We in the Department of Justice are unequivocally opposed to any record-

ing or eavesdropping on the deliberations of a jury under any circumstances, regardless of the purpose."

Yet we wonder if Mr. Brownell is himself altogether blameless of contributing to the thinking that led these judges and lawyers to violation of the jury room. Mr. Brownell sponsored a wire-tap bill before Congress which would have allowed him to designate whose telephones would be tapped and whose homes would be "bugged" with microphones.

The home has a legal sanctity to it also, and eavesdropping can violate the rights of individuals as much as it can the sanctity of the jury room.

Indeed, an argument for authority by the Attorney General to wire-tap and place microphones in homes in order to catch criminals is an argument also for the same procedure in jury rooms to see that the jury deals properly with a caught criminal. What all this would do to a free people is rather chilling to think on.

Mr. Brownell says he will ask for a law to prevent intrusions upon jury privacy "by any persons whomsoever and by any means whatsoever." The idea is a good one. It would be even better if he included all legal eavesdropping to prevent intrusions on the privacy of a man's home as well.

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'Bugging' of Jury Room Condemned by Hillings

**Congressman Says He'll Ask Inquiry
on University of Chicago's Listening In**

Rep. Patrick J. Hillings of the 25th Congressional District, yesterday said he will ask a House investigation of the eavesdropping by the University of Chicago Law School on deliberations of a Federal grand jury.

Rep. Hillings expressed "deep concern" over disclosure of the electronic "bugging" of a Wichita jury room, with the court's consent, in the interests of a study sponsored by the Ford Foundation.

The unprecedented intrusion on the secrecy of the jury room was first disclosed exclusively by the Times Washington Bureau.

Hillings said he will ask the chairman of the House Judiciary Committee, of which he is a member, to undertake an investigation.

"I believe that the sanctity of the jury room should be inviolate," the Representative declared. "Jurors must make their decisions unfettered by any thought of disclosure or possibility of retaliation."

Hillings declared that disclosures of corruption and subversion in the previous administration were made by grand juries and subsequent convictions were made by petit juries.

"What would have been the effect if these jurors' deliberations had been listened to by outsiders no one can say," he declared.

"Atty. Gen. Brownell is to be commended for his promptness in recognizing the problem and I intend to support remedial legislation

which the Attorney General plans to recommend," Hillings said.

Senators Subpoena University Educators

WASHINGTON, Oct. 6 (AP) — The Senate Internal Security Subcommittee announced tonight it has subpoenaed the University of Chicago educators who secretly recorded the deliberations of a Wichita (Kan.) Federal court jury.

Chairman Eastland (D) Miss., terming their action "reprehensible," said they will be questioned by the subcommittee at a public hearing here Wednesday.

Eastland said the subpoenas were served on Edward H. Levi, dean of the University's Law School; Prof. Harry Kalven Jr. and the "team" which actually placed recording devices in the jury room in the educators' study of jury practices.

They are Abner J. Mikva, Paul Kitch and Fred Strodebeck, members of the university teaching staff.

Eastland, chairman of the subcommittee and its parent Senate Judiciary Committee, explained he had assigned the inquiry to this subcommittee because he believed "anything which attacks the integrity of the jury system is vital to the internal security of the United States."

Sen. O'Mahoney (D) Wyo., member of the Judiciary Subcommittee on Improvement of the Judicial Machinery, said he considered the Chicago educators' project was "a sort of a reckless thing to do."

Mr. Tolson	✓
Mr. Boardman	✓
Mr. Nichols	✓
Mr. Belmont	✓
Mr. Harbo	✓
Mr. Mohr	✓
Mr. Parsons	✓
Mr. Rosen	✓
Mr. Tamm	✓
Mr. Sizoo	✓
Mr. Winterrowd	✓
Tele. Room	✓
Mr. Holloman	✓
Miss Gandy	✓

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POSSIBLE OBSTRUCTION OF JUSTICE
UNIVERSITY OF CHICAGO
FEDERAL COURT, WICHITA, KAN. MAY 1954

LOS ANGELES TIMES

OCT 7 1955

MORNING EDITION

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NOT RECORDED
138 OCT 13 1955

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United Press

The Senate Internal Security subcommittee announced yesterday that it has subpoenaed five persons to testify next week on the concealing of a microphone in a jury room at Wichita, Kan.

The witnesses, who will testify next Wednesday, all were connected with a jury-study project being conducted by the University of Chicago. Attorney General Herbert Brownell Jr., reprimanded the law school Wednesday for concealing the microphone.

Subcommittee Chairman James O. Eastland (D-Miss.) said the witnesses will be Edward H. Levi, dean of the University's law school; Harry Kalven Jr., a law professor and director of the project, and Abner Joseph Milks, Paul Kitch and Fred Strodebeck.

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 N. Y. Mirror _____
 Daily Worker _____
 The Worker _____
 New Leader _____

Date 10-7-55

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64 OCT 1955

Jury Tapping

The disclosure that concealed microphones were placed in the jury room of a Federal court in Wichita, Kan., as part of a research project is altogether shocking. It is no less shocking that a United States judge, a United States attorney, and members of the University of Chicago Law School faculty should have approved of the project and participated in it without any apparent awareness of its impropriety. There is something a little bit anomalous in having the enormity of this situation called to public notice by Attorney General Brownell and Senator Eastland, who have not been especially sensitive about the perils of wiretapping. Nevertheless, their protest was entirely proper and timely.

A jury imperatively needs to carry on its deliberations in private. When it retires to consider the evidence and arguments in a case which has been argued before it, its members must be free from any outside pressure or fear of reprisal. They must be free also to discuss the case with full confidence that what they say will not go beyond the walls of the jury room. Any impairment of this privacy not only destroys the detachment with which they ought to deliberate but effectually deprives the litigants of their right to a fair trial. Uninhibited discussion becomes very difficult if there is fear of a concealed microphone. A very bad mistake was made at Wichita, and it was compounded by the public discussion of the project. Mr. Brownell and Senator Eastland are quite right to initiate measures which will prevent any recurrence of this kind of intrusion on the administration of justice.

Mr. Tolson _____
 Mr. Boardman _____
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 Mr. Mohr _____
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 Mr. Sizoo _____
 Mr. Winterrowd _____
 Tele. Room _____
 Mr. Holloman _____
 Miss Gandy _____

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 Daily Worker _____
 The Worker _____
 New Leader _____

Date 10-7-55

p. 22

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52 OCT 19 1955

Memorandum received at Justice
 University of Chicago
 Federal Court, Wichita, Kansas. 10/11/54

*Public exposed of Jurors -
The 10-17 of 1955
Chicago Court bugged. Kansas. 10-17-55*

5 U. of C. Prof's Called in 'Bugging'

Five educators who planted recording devices in a Federal Court jury room have been subpoenaed for questioning by senators.

The educators, all from the University of Chicago, are Edward H. Levi, dean of the law school; Prof. Harry Kalven Jr., professor of law, and Abner J. Mikva, Paul Kitch and Fred Strodebeck.

The five will appear next Wednesday before the Senate Internal Security Subcommittee headed by Sen. Eastland (D-Miss.).

Kalven has acknowledged he had the jury room "bugged" to record the jurors' discussions in deliberations on five civil cases. He insisted it was done with the consent of court officials and the litigants involved. He said it was part of a research project in a detailed study of the jury system.

Disclosure of the incident has drawn criticism from Attorney General Brownell, who announced the Justice Department will ask Congress to pass a law to forbid "such intrusions upon the privacy" of jurors.

Mr. Tolson	_____
Mr. Boardman	_____
Mr. Nichols	_____
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Mr. Mohr	_____
Mr. Parsons	_____
Mr. Rosen	_____
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Mr. Winterrowd	_____
Tele. Room	_____
Mr. Holloman	_____
Miss Gandy	_____

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CHICAGO AMERICAN

4 ★ Final Edition

Date OCT 7 - 1955
Page 5 Col. 4

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32 OCT 19 1955

Eavesdrop Outrage

WHEN the University of Chicago Law School planted a microphone in a jury room in Wichita, Kan., and eavesdropped on deliberations of five cases it was guilty of an abominable violation of a fundamental principle of the American judicial system and stupid or wilful disregard of the Seventh Amendment.

This egghead experiment was carried out under the guise of lofty research. It becomes more shocking with the statement by Prof. Harry Kalven, director of the University's jury project, that the chief judge, trial judge and attorneys for all parties, including the U. S. District Attorney in the 10th Federal Circuit Court at Wichita approved it.

To cap the intrusion into a jury's right to secret deliberations, the eavesdropped recordings, still according to Prof. Kalven, were played by the Federal judges of the 10th Circuit at their Summer meeting.

Attorney General Brownell has announced his and his department's unequivocal opposition "to any recording or eavesdropping on the deliberations of a jury under any conditions regardless of the purpose" and said he will ask for a law to prevent any further outrages. It seems incredible there would have to be a law, but this case has underscored the necessity, so let's have it.

Mr. Brownell says jury eavesdropping is inconsistent with the Seventh Amendment. He is unanswerably right. This Amendment calls for preservation of the right to trial by jury. Eavesdropping is a violation of a basic aspect of that right.

Senator James O. Eastland, chairman of the Senate Internal Security subcommittee, announces hearings will be held next week. We hope the committee goes into it thoroughly and hard.

Finally, the jury project was carried out under a grant from the Ford Foundation. The Foundation says such research is conducted "under direction of the institution receiving the grant" and the Foundation "takes no part in it."

All right. But it seems to us the Foundation ought to keep a lot closer check on what is being done with its money, what is being researched and why. The founder of the great Ford empire would have been shocked to his bones by this one. And we are sure his grandson, Henry Ford 2d, president of the Ford Company, who has demonstrated time and time again his belief in civil justice and liberties, would vehemently dissociate himself from "research" like this.

Mr. Tolson	
Mr. Boardman	
Mr. Nichols	
Mr. Belmont	
Mr. Harbo	
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N. Y. JOURNAL AMERICAN
DATED OCT 7 1955
FORWARDED BY N. Y. DIVISION

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RECEIVED OCT 19 1955

EAVESDROPPING ON JURY

WE should think a university law professor, of all people, would have a more than average appreciation of our constitutional sanctities.

And when that sanctity involves the right of trial by jury, we should think a judge, of all people, would understand its meaning and evidence an unflinchable respect for it.

Yet, it now is revealed that a University of Chicago professor, making a "study" of the jury system, planted microphones in a Wichita jury room in five cases to pick up the deliberations.

The chief judge of the 10th Circuit District and the trial judge in these cases approved of this eavesdropping.

Attorney General Brownell has denounced the incident. Sen. Eastland, chairman of the Senate Internal Security subcommittee, will hold hearings next week.

Mr. Brownell's language necessarily was moderate. The Eastland investigation should be unreserved.

In this country, we usually put people in jail for tampering with juries. Trying to find out what the jurors say as they deliberate a case is tampering, in our book.

The integrity of the jury system is armored by the privacy of a jury's deliberations. Any intrusion of that privacy, as the Attorney General said, is a patent violation of the system's integrity.

Our Constitution guarantees every citizen the right of trial by jury. He who flouts that right transgresses one of our precious heritages.

Mr. Tolson ☒
Mr. Boardman ☒
Mr. Nichols ☒
Mr. Belmont ☒
Mr. Harbo ☒
Mr. Mohr ☒
Mr. Parsons ☒
Mr. Rosen ☒
Mr. Tamm ☒
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Mr. Holloman ☒
Miss Gandy ☒

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Date OCT 7 1955

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OCT 13 1955

Re: New CBS Radio 2-11-55
Wichita, Kansas
S. JOURNAL COAST, WICHITA, FOR 10-11-55

Senate Group Subpenas 5 in Microphone Case

United Press
The Senate Internal Security subcommittee announced yesterday that it has subpoenaed five persons to testify next week on the concealing of a microphone in a jury room at Wichita, Kan.

The witnesses, who will testify next Wednesday, all were connected with a jury-study project being conducted by the University of Chicago. Attorney General Herbert Brownell Jr. reprimanded the law school Wednesday for concealing the microphone.

Subcommittee Chairman James O. Eastland (D-Miss.) said the witnesses will be Edward H. Levi, dean of the University's law school; Harry Kalven Jr., a law professor and director of the project, and Abner Joseph Mikva, Paul Kitch and Fred Strodebeck.

Mr. Tolson ✓
Mr. Boardman ✓
Mr. Nichols ✓
Mr. Belmont ✓
Mr. Harbo ✓
Mr. Mohr ✓
Mr. Parsons ✓
Mr. Rosen ✓
Mr. Tamm ✓
Mr. Sizoo _____
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Mr. Holloman _____
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Date OCT 7 1955

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138 OCT 11 1955

OCT 10 1955

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UNIVERSITY OF CHICAGO
FEDERAL COURT WICHITA, KAN. AS MAY 1954*

25 OCT 1955

A-10 ** THE EVENING STAR Washington, D. C.
FRIDAY, OCTOBER 7, 1955

Senators Investigate 'Mike' in Jury Room

By the Associated Press

Five University of Chicago educators who planted recording devices in a Wichita, Kans., Federal Court jury room, had a summons today from investigating Senators.

Chairman Eastland, Democrat of Mississippi, denouncing their action as an "attack on the sanctity of the jury system," had the men subpoenaed for questioning at a public hearing Wednesday before the Senate Internal Security Subcommittee which he heads.

The five are Edward H. Levi, dean of the university's law school; Prof. Harry Kalven, Jr., professor of law, and the three-man team which placed hidden microphones, or "bugs" in the jury room at their instructions and without the jurors' knowledge.

Part of Research Project

Mr. Kalven has acknowledged that he had the jury room "bugged," to record the jurors' discussions in their deliberations on five civil cases. But he insisted that he did so with the prior consent of court officials, and of the litigants involved. He said it was part of a research project embracing a detailed

study of the jury system in this country.

Senator Eastland did not say whether he would seek testimony from any of the court officials involved.

In addition to the two university officials, he named the others subpoenaed as Abner J. Mikva, Paul Kitch and Fred Strodebeck of the university teaching staff.

Brownell to Ask Law

Disclosure of the incident has drawn criticism from Attorney General Brownell, who announced the Justice Department will ask Congress to pass a law to forbid "such intrusions upon the privacy" of jurors.

Senator Eastland said his inquiry is designed to show whether any laws were violated, as well as whether new ones are needed.

Senator O'Mahoney, Democrat of Wyoming, told a reporter he also believes "the Wichita incident" has pointed up a need for tighter laws.

He said "development of microphones and wiretap gimmicks which invade the privacy of the citizen" is a further reason why it would be wise to spell out legislation forbidding eavesdropping on what goes on in the jury room.

Mr. Tolson _____
Mr. Boardman _____
Mr. Nichols _____
Mr. Belmont _____
Mr. Harbo _____
Mr. Mohr _____
Mr. Parsons _____
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Date 10/7/55

Jury-Room Mikes

There is always something humorous about the downfall of the pompous. Therefore, it is with chuckles that one reads of a microphone hidden in a jury room of federal court.

Federal court, in case you have had no dealings with that institution, is about as formal as the Court of St. James. Everyone has to respect the dignity of the court — and no nonsense about it.

Men who attend court must wear coats and neckties. No one may puff a cigaret in the courtroom at any time. A spectator who gets too near the jury box will be politely but sternly ushered away by a court attendant because there must be no possibility of the jury being unduly influenced.

Cameras are banned. The federal bench feels that even a miniature camera without flash can in some way hamper justice.

Federal court is very correct, very dignified, very upright. No one can quarrel with such procedure. Court actions that involve the freedom or property of citizens should not be hampered by anything which could disrupt justice.

It is especially important to protect juries. They must be undistracted in the courtroom and granted complete freedom of discussion in the jury room. Otherwise, justice can be impaired.

We raise this question:

Now that juries know that their deliberations have been secretly recorded, will jurors feel free to speak their minds? Will they feel free to talk matters out completely in their effort to reach a just decision?

It seems to us that the dignity of the federal bench has been more impaired by one microphone than it could ever have been by cigarets, flashbulbs, and shirtsleeves.

Mr. Tolson	_____
Mr. Boardman	_____
Mr. Nichols	_____
Mr. Belmont	_____
Mr. Harbo	_____
Mr. Mohr	_____
Mr. Parsons	_____
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THE WICHITA BEACON
LLOYD M. LEVARD, PRESIDENT
GENERAL MANAGER
WICHITA, KANSAS
OCTOBER 6, 1955

Senate Group to Probe Jury Room Microphone

A microphone planted as a research project to record secret deliberations of Federal court juries raised indignant echoes today at the Capitol and in the Justice Department.

Chairman Eastland of the Senate Internal Security Subcommittee scheduled open hearings next week to investigate the use of a microphone unknown to jurors in five cases tried in Federal Court in Wichita, Kans., in May, 1954.

Attorney General Brownell declared last night that "we in the Justice Department are unequivocally opposed to any recording or eavesdropping on the deliberations of the jury under any condition regardless of purpose."

He announced that the department will propose congressional enactment of a bill "to prevent such intrusions upon the privacy of the deliberations of both grand and petit juries by any persons whatsoever and by any means whatsoever."

Senator Eastland, Democrat of Mississippi, did not identify witnesses he expects to call for the hearings next week. Presumably they would include Prof. Harry Kalven, University of Chicago Law School professor, who conducted the project in the court of United States District Judge Delmas C. Hill of Wichita.

Had Prior Consent

Prof. Kalven told the Associated Press in Chicago late yesterday that the planting of the microphone and the recording of the jury session was done with prior consent of the judge, the attorneys for all parties and the United States attorney in that district.

He explained that the law school has been engaged since September, 1952, in an extensive study of the operation of the jury system for the purpose of improving the administration of the court system.

He said that "as a minor part of that study" the jury deliberations in five cases in Wichita were recorded with the consent of Judge Hill and Chief Judge Orin Phillips of the 10th Circuit Court of Appeals. He added that he understood selections from the recordings were played by Federal judges of the 10th Circuit at their regular judicial conference last summer.

Claims Safeguards

Judge Phillips commented in Denver last night that he knew about the microphone in the Wichita jury room but that "certain safeguards were used to make sure no harm was done to anyone." Judge Hill declined to comment on a Los Angeles Times story earlier yesterday concerning the reported "bugging" of the jury sessions except to say that "if such a thing occurred you can rest assured I would not have done it without the prior approval of Chief Judge Phillips."

Before Mr. Brownell made his statement another Justice Department spokesman said the department was investigating an "alleged jury tampering matter."

There was considerable doubt today that any clear-cut law applies to circumstances such as those in the Wichita incident. Senator Eastland implied this when he said:

"If we discover that an incident of this nature did occur and that such things can be done without legal liability under the present state of the law, we shall certainly recommend whatever legislation may be necessary to insure that anyone who violates the sanctity of the jury room in the future will find himself in violation of the law."

Mr. Tolson ☒
Mr. Boardman ☒
Mr. Nichols ☒
Mr. Belmont ☒
Mr. Harbo ☒
Mr. Mohr ☒
Mr. Parsons ☒
Mr. Rosen ☒
Mr. Tamm ☒
Mr. Sizoo ☒
Mr. Winterrowd ☒
Tele. Room ☒
Mr. Holloman ☒
Miss Gandy ☒

BAUMGARDNER

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126 OCT 14 1955

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Wash. News ☒
Wash. Star ☒
N. Y. Herald Tribune ☒
N. Y. Mirror ☒
Daily Worker ☒
The Worker ☒
New Leader ☒

Date OCT 6 1955

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Brownell Angered**Planted 'Mike' Spies
On Jury for Chicago U.**

United Press

Attorney General Herbert Brownell Jr., last night reprimanded the University of Chicago Law School for placing a concealed microphone in a jury room at Wichita, Kan., as part of a jury study.

"We in the Department of Justice," he said, "are unequivocally opposed to any recording or eavesdropping on the deliberations of a jury under any conditions, regardless of the purpose."

Brownell said he would ask Congress for a law to prevent any such intrusions upon jury privacy "by any persons, whomsoever and by any means whatsoever."

Meantime, Chairman James O. Eastland (D-Miss.) said the Senate Internal Security Subcommittee will hold hearings on the case next week. The Justice Department had announced earlier it would investigate the case.

Eastland said his group will recommend whatever legislation shall be necessary to insure that anyone who so violates the sanctity of the jury room in the future will find himself in violation of the law.

In Chicago, Prof. Harry Kalvin, director of the University of Chicago jury project, said the recordings were made of jury deliberations in five civil cases tried in the 10th Federal Circuit Court at Wichita in May, 1954.

Kalvin said the recordings were made with prior consent and approval of the chief judge and attorneys for all parties, including the United States District Attorney.

He said permission was granted on condition that the cases and the names of participants would not be disclosed. Kalvin said the aim of the project was to improve the administration of the court system.

"We understand that selections from the recordings were played by the Federal judges of the 10th Circuit at their regular judicial conference at Estes Park, Colo., last summer," the professor said.

Eastland said the whole operation is said to have been financed by either the Ford

Foundation or the Ford for the Republic."

[The Ford Foundation made grants to the Chicago Law School to finance the research, the Associated Press reported. The Foundation, in a statement in New York, said it advanced the money to "support a program of research in law and the behavioral sciences."

It added that the Foundation "takes no part in carrying out the study" and the work is directed by "the institution receiving the grant."

Brownell said the recordings were made without his "knowledge or consent." He said "such practices, however, well intentioned, obviously and inevitably stifle the discussion and free exchange of ideas between jurors."

Eavesdropping on deliberations, the Attorney General added, "is inconsistent with the purposes of the Seventh Amendment," which requires that trial by jury shall be preserved.

Eastland said violating the sanctity of the jury system would be "one of the greatest blows ever struck at the integrity of our judicial system."

Mr. Tolson ☒
Mr. Boardman ☒
Mr. Nichols ☒
Mr. Belmont ☒
Mr. Harbo ☒
Mr. Mohr ☒
Mr. Parsons ☒
Mr. Rosen ☒
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Mr. Holloman ☒
Miss Gandy ☒

BAUMGARDNER

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Wash. News ☐
Wash. Star ☐
N. Y. Herald Tribune ☐
N. Y. Mirror ☐
Daily Worker ☐
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New Leader ☐

Date OCT 6 1955

Wired Jury Room Rouses Brownell's 'Serious Concern'

Attorney General Herbert Brownell Jr. and Sen. James O. Eastland (D. Miss.) have called for legislation to assure the privacy of the jury room under any circumstances.

The action stemmed from concealment of a microphone in a Federal jury room at Wichita, Kans., by the University of Chicago Law School as part of a jury study.

"Such practices, however well intentioned," Mr. Brownell said "obviously and inevitably stifle the discussion and free basis for common judgment among the jurors, upon which the institution of trial by jury is based . . ."

He said the practice gives the Department of Justice "serious concern."

Sen. Eastland, chairman of the Senate Internal Security subcommittee, announced his group will hold hearings on the matter next week.

Mr. Brownell said it had been called to his attention that the University of Chicago Law School initiated the study under a grant from the Ford Foundation.

In the spring of 1954, "apparently with the consent of the judge and the lawyers on both sides," Mr. Brownell said, a Federal court jury room was wired and all the deliberations of the jury were fully recorded.

"This was done without the knowledge or consent of the jurors and without the knowledge or consent of the Attorney General in at least five civil cases," Mr. Brownell said.

Mr. Tolson ☒
Mr. Boardman ☒
Mr. Nichols ☒
Mr. Belmont ☒
Mr. Harbo ☐
Mr. Mohr ☐
Mr. Parsons ☒
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Mr. Holloman ☐
Miss Gandy ☐

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Date OCT 6 1955

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Brownell blasts jury

Mr. Tolson	_____
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NEWARK STAR LEDGER
Newark, New Jersey

Date 10-6-55 Page 2

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NEWARK FIELD DIVISION

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Mr. Tolson.....
 Mr. Boardman.....
 Mr. Nichols.....
 Mr. Belmont.....
 Mr. Harbo.....
 Mr. Mohr.....
 Mr. Casper.....
 Mr. Callahan.....
 Mr. Conrad.....
 Mr. Felt.....
 Mr. Gale.....
 Mr. Rosen.....
 Mr. Sullivan.....
 Mr. Tavel.....
 Mr. Trotter.....
 Tele. Room.....
 Mr. Holloman.....
 Miss Gandy.....

From Our Washington Bureau
 WASHINGTON, Oct. 5—
 Attorney General Herbert
 Brownell Jr. today condemned
 the planting of a microphone
 in a Wichita, Kan., federal
 court jury room by a Univer-
 sity of Chicago Law School
 research group operating on
 a Ford Foundation grant.
 Brownell told The Star-
 Ledger that the Justice De-
 partment, "at the first oppor-

tunity," will present to Con-
 gress a bill "to prevent such
 intrusions upon the privacy of
 the deliberations of both grand
 and petty juries of the courts
 of the United States by any
 persons whomsoever and by
 any means whatsoever."
 The attorney general ack-
 nowledged that the recordings
 were made with the consent
 of the judge and lawyers on
 both sides. He added, how-

ever, the deliberations were
 recorded without the knowl-
 edge of the jury and without
 the knowledge of his depart-
 ment although the courtroom
 was a federal one.
 The practice, Brownell said,
 "is inconsistent with the Sev-
 enth Amendment of the Con-
 stitution and we in the Justice
 Department are unequivocally
 opposed."
 Sen. James O. Eastland

(D. Miss.) said the Senate In-
 ternal security subcommittee
 will hold hearings on the case
 next week.
 Eastland, chairman of the
 subcommittee, said the group
 will recommend "whatever leg-
 islation shall be necessary to
 insure that anyone who so vi-
 olates the sanctity of the jury
 room in the future will find
 himself in violation of the law."
 Prof. Harry Kalven of the

University of Chicago Law
 School said the normally secret
 deliberations of federal court
 juries in five cases had been
 recorded in a "research proj-
 ect."
 Kalven, director of the proj-
 ect, issued his statement after
 a California newspaper said a
 microphone had been planted
 in a jury room in Wichita and
 the jurors were not aware of it.
 Kalven's statement also set

forth:
 "Recording of the five cases
 was made under conditions
 that provided for stringent
 control by the court and with
 the requirement that any ul-
 timate use of these materials by
 the project would not disclose
 the identity of the case or
 any of the participants.
 "We understand that selec-
 tions from the recordings were
 played by the federal judges
 of the 10th Circuit at their

regular judicial conference at
 Estes Park, Colo., last sum-
 mer."
 Judge Hill, reached at Tope-
 ka, Kans., where he was pre-
 siding at a court session, de-
 clined to confirm or deny the
 Times' story.
 "If such a thing occurred,"
 Judge Hill said, "you can rest
 assured I would not have done
 it without prior approval of
 the chief judge of the 10th
 Judicial District, Judge Orrie

L. Phillips of Denver."
 Judge Phillips told a re-
 porter he knew a microphone
 had been used in the Wichita
 jury room but added that
 "certain safeguards were used
 to make sure no harm was
 done to anyone."
 He said however, that "this
 is not particularly my affair"
 and "I haven't any further
 comment to make."
 Judge Phillips said Judge
 Hill knows all about it.

Edition

SUBMITTED BY THE
 NEWARK FIELD DIVISION